

# **COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

## **RULES AND REGULATIONS CONCERNING AUTHORIZATION FOR OUT-OF-STATE INSTITUTIONS TO OFFER COURSES AND PROGRAMS IN THE STATE OF NEBRASKA**

### **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

#### **CHAPTER 1 - RULES AND REGULATIONS CONCERNING AUTHORIZATION FOR OUT-OF-STATE INSTITUTIONS TO OFFER COURSES AND PROGRAMS IN THE STATE OF NEBRASKA**

12/10/93 Amendment

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LAST ISSUE DATE: MARCH 13, 1992

## **001 APPLICATION**

Prior to offering any course or degree program in the State of Nebraska, out-of-state institutions shall apply to the Commission for authorization to operate in the State. The provisions of this rule shall also apply to courses or programs delivered in the State by an out-of-state institution via telecommunications-based instruction if the institution will have a physical presence in Nebraska.

001.01 Exclusions. The requirements shall not apply to out-of-state institutions (a) offering a short course or seminar in which instruction for the segment takes no more than twenty classroom hours, or (b) offering courses or programs on a military installation solely for military personnel or civilians employed on such installation.

An out-of-state institution which offers more than one short course or seminar in Nebraska for which instruction for the segment takes no more than twenty classroom hours is subject to provisions of this rule.

## **002 STATUTORY AUTHORITY**

002.01 Chapter 85, Section 85-1101 relating to a definition of out-of-state institutions.

002.02 Chapter 85, Section 85-1102 relating to registration and authorization requirements for out-of-state institutions which intend to offer courses or degree programs in the State of Nebraska.

002.03 Chapter 85, Section 85-1103 relating to criteria for Commission determinations on applications of out-of-state institutions to offer courses or degree programs in the State of Nebraska.

002.04 Chapter 85, Section 85-1104 relating to criminal penalties for violation of the Statutes.

002.05 Provisions relating to the establishment of new two or four-year private colleges in the State are found in Chapter 85, Sections 85-1105 to 85-1111 and Title 281, NAC Chapter 2.

002.06 Private out-of-state vocational educational institutions offering vocational

credentials, or offering instruction for attainment of occupational objectives, as defined in Section 79-2843 (R.R.S.) have requirements in Chapter 24 and Chapter 28 and Title 92, NAC Chapters 41, 42 and 43. The Commission shall make recommendations to the State Board of Education with regard to granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under the Private Postsecondary Career School Act whenever said school offers any course which is intended to lead to the granting of an associate degree, diploma, or certificate for any course which qualifies for college credit (85-1412 [9]).

### **003 APPLICATION PROCEDURE**

Out-of-state institutions of higher education shall apply to the Coordinating Commission for Postsecondary Education to request authorization to offer courses or programs in the State of Nebraska.

003.01 Application Format. The request shall be made in a form as specified by the Commission for this purpose. The applicant shall provide all information requested before the application may be reviewed by the Commission. Separate applications shall be required for each degree program. Multiple individual courses not intended as a degree program may be submitted simultaneously.

003.02 Application Fee. A non-refundable application fee for administrative costs shall be submitted with each application. Resubmission of an application following its withdrawal by the out-of-state institution or reapplication requires an additional application fee.

Cooperative arrangements (ie: co-sponsorship) for the delivery of courses or programs within the State of Nebraska between a Nebraska institution and an out-of-state institution through an exchange of faculty and/or students may be authorized without payment of an administrative fee as long as the courses and programs are within the established role and mission of the Nebraska public institution, or within the accredited curriculum of the Nebraska independent institution, and written notification is received by the Commission before such a course or program is offered. Such courses and programs must be considered as a part of the regular instructional program of the Nebraska institution.

## **004 DEFINITIONS**

- 004.01      Commission shall mean the Coordinating Commission for Postsecondary Education.
- 004.02      Out-Of-State Institution shall mean any college, university, community college, technical community college, technical institute, junior college, or the equivalent that awards an associate or higher degree and is controlled by a public or private body organized outside the boundaries of the State of Nebraska.
- 004.03      Course shall mean a college-level course offered for credit with specific curriculum, educational objectives and course requirements.
- 004.04      Degree Program shall mean a sequence or combination of courses which, upon satisfactory completion thereof, lead to an award of an educational certificate, diploma, or degree.
- 004.05      Telecommunications-based instruction shall mean college-level credit courses offered where any number of students are assembled at a receiving site by a postsecondary institution for the purpose of engaging in instruction by means of telecommunications regularly emanating from a sending institution. Telecommunications-based instruction provided to the personal residence of individual students are excluded from this rule. This definition excludes courses which use telecommunications primarily to enhance or supplement instruction. Telecommunications-based instruction shall include instruction delivered to the receiving site via terrestrial or satellite installations including television, radio, telephone and/or computer communications.
- 004.06      Service Area shall mean the county of the specific location at which the institution proposes to conduct courses/programs.
- 004.07      Physical Presence in Nebraska shall be evidenced by arrangements for sites where an out-of-state institution offers one or more courses for college credit on an established schedule at locations other than the personal residence of individual students.

## **005 APPLICATION REQUIREMENTS**

The Commission will consider the following criteria.

- 005.01      Demonstrated Need and Demand for the Course or Program in the Area to be Served. The institution shall demonstrate the need for the program

in Nebraska. The Commission will determine whether the proposal constitutes unnecessary duplication in the context of the existence of comparable courses and/or programs already offered in the proposed service area which may meet the needs of students targeted by the out-of-state institution.

005.02      The Quality of Courses or Programs of Instruction to be Offered in the State. The institution shall demonstrate that the instructional program is of sufficient depth, breadth and rigor to provide the knowledge, skills and abilities which are expected of course/program graduates or completers and to merit award of the proposed certificate, diploma or degree.

The quality of the instructional program to be offered in the State shall be comparable to that offered on the main campus of the institution. There shall be a reasonable relationship between the hours of instruction and credits awarded.

005.03      The Quality of Teaching Faculty, Library and Support Services. The institution shall demonstrate that faculty who will teach the courses to be offered in Nebraska are appropriately qualified to teach such courses.

The institution shall demonstrate that local library and learning resources are of an appropriate breadth, depth and quality to support the courses and/or instructional program and meet the needs of Nebraska students enrolled in such courses and/or program.

The institution shall demonstrate that local support services for faculty and student services are adequate and appropriate to support the students and faculty.

The quality of teaching faculty, library and support services which are part of courses or programs to be offered in Nebraska shall be comparable to the quality of such offered on the main campus of the institution.

005.04      Legal Form and Ownership. The applicant shall specify the legal form of the institution (for-profit, 501.C.3, corporation, partnership, etc.). If the institution is affiliated with any other institution, or ownership of the institution is by an out-of-state entity, such relationship shall be defined.

005.05      Financial Soundness and Ability to Fulfill Commitments to Students. The institution shall demonstrate financial stability and financial capability to support its programs for Nebraska students.

005.06      Program or Course Location. The institution shall identify the specific location or locations (by street address) where courses or programs will

be offered and demonstrate that the facilities are adequate at such location or locations for the courses or programs to be offered. When an out-of-state institution designates a planned program location, approval shall be contingent upon designation of a specific location or locations where programs will be offered within a Commission-specified period of time following Commission approval.

- 005.07      Affiliations. The institution shall identify relationships with Nebraska postsecondary institutions for transfer of credit; use of joint faculty and/or facilities; or other supportive relationships.
- 005.08      Transferability of Credits. The institution shall affirm that course credits earned by students in Nebraska are reasonably transferable to the main campus of the institution and to other postsecondary education institutions. Advertisements of courses or programs in Nebraska shall indicate the extent to which course credits are transferable.
- 005.09      Accreditation. The institution shall demonstrate it holds appropriate accreditation from an accrediting body recognized by the United States Department of Education. If accreditation of the program to be offered in the State is commonly recognized as an essential indicator of program quality and a valid predictor of student employment placement, then the institution shall also demonstrate that it holds such program accreditation.
- 005.10      Additional Information. The Commission may examine any aspects of the proposal deemed necessary to establish sufficient understanding to draw an appropriate conclusion with respect to any part of the proposal. The institution shall comply with any reasonable request of the Commission for information which the Commission deems necessary to draw an appropriate conclusion.

## **006    PUBLIC HEARING**

Pursuant to the Administrative Procedures Act 281 NAC Chapter 12, Section 003.03 (4) and Section 005.02A, the Commission will hold a public hearing prior to making a determination to approve or deny the application of an out-of-state institution to offer courses and/or programs in the State. The Commission will publish notice of such public hearing in a newspaper with general circulation at least thirty but not more than sixty days prior to the date set for such hearing. A representative of the out-of-state institution shall be present for such public hearing.

## **007    COMMISSION ACTION**

All contacts with the Commission shall be through the Executive Director or his/her designee. The Executive Director or his/her designee shall notify the applicant institution of action of the Commission.

## **008 ANNUAL REPORT**

Each out-of-state institution shall provide an annual report to the Commission in a form prescribed by the Commission.

## **009 REVOCATION OR SUSPENSION OF PERMISSION TO OFFER COURSES OR PROGRAMS IN THE STATE**

The Commission may, based on documented substantial evidence that an out-of-state institution no longer meets the requirements of this rule, revoke or temporarily suspend the authorization of such institutions to offer a course or program in the State. Prior to any such revocation or suspension, the Commission will hold a public hearing pursuant to the procedures described in Section 006 of this rule.

## **010 APPLICATION INFORMATION**

The Commission will adopt an application procedure describing the specific information which institutions shall submit to demonstrate compliance with the criteria prescribed in this rule.



# **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

## **CHAPTER 2 - RULES AND REGULATIONS CONCERNING ESTABLISHMENT OF A TWO-YEAR OR FOUR-YEAR PRIVATE COLLEGE**

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LAST ISSUE DATE: MARCH 13, 1992

### **001 APPLICATION**

This rule implements statutory authority for the Coordinating Commission for Postsecondary Education to approve or disapprove the establishment of a two or four-year private college in the State of Nebraska after January 1, 1994.

### **002 STATUTORY AUTHORITY**

This rule is adopted pursuant to authority vested in the Coordinating Commission for Postsecondary Education in Chapter 85, Section 1105-1110.

### **003 APPLICATION PROCEDURE**

07/25/02 Adoption

Individuals or organizations sponsoring the proposed college shall petition the Coordinating Commission for Postsecondary Education for authority to operate a two or four-year private college.

003.01      Application Format. The application will be in the form as specified by the Commission for this purpose.

The applicant will provide all information requested as a part of the application procedure before the application will be reviewed by the Commission.

003.02      Application Fee. A non-refundable application fee for administrative costs is required.

#### **004    DEFINITIONS**

004.01      Commission shall mean the Coordinating Commission for Postsecondary Education.

004.02      Private College shall mean a for-profit or not-for-profit institution of postsecondary education not created by the Nebraska Legislature, which offers degrees, diplomas or certificates to students upon the successful completion of a prescribed course of study.

004.03      Two or Four-Year College shall mean a postsecondary institution offering undergraduate courses of study leading to a degree. A two-year college is limited to degree programs leading to an associate degree but may include one-year diplomas and other certificates based on the award of college credit. A four-year college is limited to degree programs which lead to a baccalaureate degree but may include associate degree programs, diplomas and other certificates based on the award of college credit.

The definition shall not include private vocational educational institutions offering vocational credentials or offering instruction for attainment or occupation objectives as defined in Section 79-2847(R.R.S.) Private vocational educational institutions offering vocational credentials, or offering instruction for attainment of occupational objectives, as defined in Section 79-2843 (R.R.S.) have requirements in Chapter 24 and Chapter 28 and Title 92, NAC Chapters 41, 42 and 43. The Commission shall make recommendations to the State Board of Education with regard to granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under the Private Postsecondary Career School Act whenever said school offers any course which is intended to lead to the granting of an associate

degree, diploma, or certificate for any course which qualifies for college credit (85-1412 [9]).

004.04      Associate Degree Programs. Associate degree programs shall require two academic years (based upon at least an average of 30 semester credit hours for each academic year) of full-time study or an equivalent that can be shown to accomplish the same goals.

004.05      Baccalaureate Degree Programs. Baccalaureate degree programs shall require four academic years (based upon at least an average of 30 semester credit hours for each academic year) of full-time study or an equivalent that can be shown to accomplish the same goals.

## **005      APPLICATION REQUIREMENTS**

The Commission will consider the following criteria.

005.01      Need Statement. The applicant shall include appropriate data and objective evidence to establish the need for such an institution. The Commission will determine whether the proposal constitutes unnecessary duplication in the context of the existence of comparable courses or programs already offered which may meet the needs of students targeted by the institution.

005.02      Role and Mission Statement. The role and mission of the proposed institution should be concisely expressed and appropriate to achieve the need established in 005.01.

005.03      Proposed Instructional Program. The proposed instructional program shall be appropriate for the role and mission. Each proposed curriculum, and the courses to meet the requirements of the curriculum, shall be explicitly described. Courses shall be appropriate to achieve the objectives of the curriculum.

The applicant shall demonstrate that the instructional program is of sufficient depth, breadth and rigor. There shall be a reasonable relationship between the hours of instruction and credits awarded.

005.04      Legal Form and Ownership. The legal form of the proposed institution shall be acceptable in the State of Nebraska and suitable to the institution's role and mission.

005.05      Personnel Qualifications. The qualifications and number of faculty which will be sought to meet the objectives of the proposed instructional program shall be clearly identified. The qualifications shall be appropriate

to the role and mission of the institution and the proposed instructional program.

The qualifications of persons who complete the application and of all those who at the time of application constitute the administrative/governing board/ownership structures shall be clearly identified. Said qualifications shall be suitable to achieve the purposes of the institution.

- 005.06      Financial Soundness and Ability to Fulfill Commitments to Students. The institution must have a sound financial condition with resources available to meet the institution's financial obligations to provide adequate service to its students and prospective students, and for the use and support of the institution. The Commission may require a review of financial statements by independent accountants acceptable to the Commission, with a report of findings provided directly to the Commission with payment of fee for said accountants by the institution.
- 005.07      Student Qualifications. The admissions standards of the proposed institution shall be provided with the proposed procedures for implementing the standards. Said standards shall be appropriate to the role and mission of the institution.
- 005.08      Institutional Location(s). The institution shall identify the specific location or locations (by street address) where the administrative offices and instructional programs will be offered.
- 005.09      Facilities. The plan for providing adequate classroom, laboratory, library, student services, office and other space shall be appropriately detailed. The building(s) shall comply with local fire, building, health, ADA and safety requirements, and be adequate to accommodate the educational program(s) of the institution.
- 005.10      The Quality of Instructional Equipment, Library and Support Services. The institution shall demonstrate that instructional equipment, library and learning resources are of an appropriate breadth, depth and quality to support the instructional program and meet the needs of students and faculty.
- The institution shall demonstrate that support services for faculty and student services are adequate and appropriate to support the students and faculty.
- 005.11      Accreditation. The institution shall certify it intends to seek appropriate accreditation from an accrediting body recognized by the United States

Department of Education. If accreditation of the program to be offered in the State is commonly recognized as an essential indicator of program quality and a valid predictor of student employment placement, then the institution shall also demonstrate that it shall seek such program accreditation.

005.12      Additional Information. The Commission may examine any aspects of the proposal deemed necessary to establish sufficient understanding to draw an appropriate conclusion with respect to any part of the proposal. The institution shall comply with any reasonable request of the Commission for information which the Commission deems necessary to draw an appropriate conclusion.

## **006    PUBLIC HEARING**

Upon receipt and review of a complete application with supporting documentation, the Commission shall set a time and a place for a public hearing thereon and shall cause notice thereof to be published in one or more newspapers of general circulation, not less than thirty and not more than sixty days prior to the date set for the hearing. Such hearing shall be held as provided in Chapter 84, Article 9 of the Reissued Revised Statutes of Nebraska. The applicant or a representative of the applicant shall be present during the public hearing and provide information as requested.

## **007    COMMISSION ACTION**

All contacts with the Commission will be made through the Executive Director or his/her designee. The Executive Director or his/her designee shall notify the applicant of the action by the Commission.

## **008    REVIEW OF AUTHORIZATION**

If authorized by the Commission, the authorization will be reviewed at the end of the second academic year. If the review is favorable, authorization will be extended for five years upon which time the courses and degree programs will be reviewed again.

## **009    ANNUAL REPORT**

Each approved institution shall provide an annual report in a form prescribed by the Commission until regional accreditation has been achieved, or a period of five years, as per section 008, whichever is longer.

## **010    APPLICATION INFORMATION**

The Commission will adopt an application procedure describing the information which institutions shall submit to demonstrate compliance with the criteria prescribed in this rule.



# **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

## **CHAPTER 3 - RULES AND REGULATIONS CONCERNING ACCREDITATION OF A PRIVATE COLLEGE**

July 11, 1995

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### 001 General Provisions

These Rules and Regulations provide for the implementation of LB 141 as passed by the 86th Legislature first session and signed by Governor Thone on May 17, 1979. The Act authorizes the Coordinating Commission for Postsecondary Education to provisionally accredit a private college which has not been previously accredited by a regional or professional accrediting association recognized by the Council on Postsecondary Accreditation.

### 002 Statutory Authority

This rule is adopted pursuant to authority vested in the Coordinating Commission for Postsecondary Education in Chapter 85, Section 1111.

### 003 Application Procedure

- 003.01 An approved private college which is not regionally accredited may apply for provisional accreditation by contacting the Executive Director of the Commission, or his designated representative.
- 003.02 The Commission staff will assist the applicant in obtaining a mutually acceptable consultant, who has experience as a member of regional

accreditation teams, to work with the institution in developing a self-study.

003.03 The self-study will include an extension of all the elements contained in Rule 2 as to the requirements for a petition for the establishment of a new private institution and the elements normally required for regional or professional accreditation.

003.04 Upon submission of the self-study to the Commission, the Commission and the applicant will jointly select a three member team which will review the self-study, visit the campus to verify statements in the self-study and recommend to the Commission approval or disapproval of provisional accreditation.

All expenses for the review are to be borne by the applicant.

#### **004 Definitions**

The Coordinating Commission for Postsecondary Education invests its staff the authority to use the following definitions for purposes of implementing this rule and these regulations.

004.01 Provisional Accreditation Provisional accreditation indicates that an institution is a candidate for accreditation having achieved initial recognition and is progressing toward, but is not assured of, regional or professional accreditation.

004.02 Self-Study A self-study is an analysis by an institution of its major problems and the projected solutions to these problems. A self-study generally contains statements concerning its authorization; history; institutional philosophy, goals, and objectives; organization and administration; faculty; students; curriculum; library; finances; and facilities.

#### **005 Notification of Decision**

All contacts with the Commission (except appeals) will be made through the Executive Director. The Executive Director shall notify the applicant by telephone within 24 hours of the action by the Commission and by registered mail within 5 days after the action by the Commission.

#### **006 Appeals**

The proposed institution has the right of appeal should its application be denied when the institution can show that its application has been misrepresented by Commission staff or others in testimony before the Commission or that the Commission has not followed the

procedures prescribed by this rule. The institution whose application has been denied because of incomplete information has the right of reapplication.

006.01      Procedure An appeal will be made to the Chairman of the Commission. The chairman shall appoint a special committee of three Commissioners to review the appeal. The committee shall consider the appeal and make recommendations to the Commission. The decision of the Commission shall be binding.

## **007      Length of Provisional Accreditation**

Provisional accreditation, when granted, shall not remain in effect for more than three years but may be renewed for a like period in the manner stated in this rule and these regulations.

# **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

## **CHAPTER 4 - RULES AND REGULATIONS CONCERNING REVIEW OF NEW AND EXISTING INSTRUCTIONAL PROGRAMS OF PUBLIC COLLEGES AND UNIVERSITIES**

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### 001 STATUTORY AND CONSTITUTIONAL AUTHORITY

Art. VII Sec.14(2) Constitutional provision relating to Commission authority to review, monitor, and approve or disapprove programs.

§85-1402 Relating to the definition of program of instruction.

§85-1411 Relating to Commission authority to adopt, amend, repeal or otherwise implement, such rules and regulations as the Commission deems necessary to carry out its duties.

§85-1414 Relating to Commission establishment of “an ongoing process to review, monitor, and approve or disapprove...programs of public institutions... .”

### 002 SCOPE AND RELATED PROVISIONS

002.01 This rule applies to Commission review of new and existing instructional programs of public institutions.

002.02 The review of instructional programs shall be subject to the rules contained herein, the Comprehensive Statewide Plan, procedures adopted by the Commission and such other rules and regulations as may be promulgated by the Commission.

002.03 Instructional programs may also be reviewed by the Commission pursuant to its responsibilities for budget review and review of off-campus programs and education centers.

### **003 DEFINITIONS**

The following definitions shall apply to review of instructional programs.

003.01 Instructional program shall mean a sequence of courses and activities leading to a degree, diploma, or certificate in an academic discipline or subject area offered by a public institution. This type of program is commonly called a major.

003.02 Commission shall mean the Coordinating Commission for Postsecondary Education.

003.03 Existing Instructional Program shall mean an instructional program authorized by the Legislature or the appropriate governing board prior to January 1, 1992 or an instructional program authorized by the Commission after January 1, 1992.

003.04 Governing Board shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of governors for each community college area.

003.05 New Instructional Program shall mean a proposed instructional program not included in the definition of "existing instructional program" in section 003.03. A substantial modification of an existing instructional program constitutes a new instructional program. A substantial modification occurs when the principle objective of the program is changed. A reasonable and moderate extension of an existing instructional program is not classified as a new instructional program.

003.06 Public Institution shall mean any of the following: University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, Chadron State College, Peru State College, Wayne State College, Central Community College, Metropolitan Community College, Mid-Plains Community College, Northeast Community College, Southeast Community College, Western Community College, Nebraska College of Technical Agriculture, or any other public postsecondary educational institution which may be established by the Legislature.

## **004 REVIEW OF NEW INSTRUCTIONAL PROGRAMS**

### 004.01 Preliminary Notification

- 004.01.A The purpose of the preliminary notification is to provide an opportunity for the Commission to offer comments to the institution regarding potential state-level issues for consideration during the planning of the proposed program.
- 004.01.B Each public institution shall submit to the Commission a list of instructional programs that are under consideration by the institution and that are in an early stage of planning as identified in consultation with each sector.
- 004.01.C The schedule for submission shall be set by the Commission in cooperation with each institution.

### 004.02 Review Process

- 004.02.A Governing boards of public institutions shall submit to the Commission all proposals for new programs after the governing board has approved the program and prior to implementation.
- 004.02.B The format for the proposal shall be prescribed by the Commission.
- 004.02.C The Commission shall have one hundred twenty days from the date a complete final proposal is submitted to the Commission to disapprove a program or it shall stand approved.
- 004.02.D Following consultation with the governing board, the Commission may require, as a condition of approval, that a new program meet minimum performance standards established by the Commission. The Commission may require an institution to submit a periodic status report until the conditions are satisfied. If the program does not meet the performance standards, the Commission shall review the program and may continue or withdraw the approval of the program.

### 004.03 Conditional Approval

- 004.03.A A governing board may submit to the Commission for conditional approval a proposal for a new program which is not authorized by the role and mission provision of the statutes.

- 004.03.B The Commission shall review the proposal under the provisions of sections 004.01, 004.02, and 006.
- 004.03.C Within six months from its receipt of the proposal, the Commission shall report to the Legislature its recommendations in support for or opposition to the amendments to the role and mission statutes that would be necessary for the Commission to approve the program. The Commission may extend the time period for up to an additional six months for good cause. Any such extension shall be filed with the chairperson of the Education Committee of the Legislature prior to the expiration of the initial six months.
- 004.03.D Failure to timely file a report or resolution of extension with the Legislature shall be deemed to be disapproval of the proposed program and opposition by the Commission to the amendments to the role and mission statutes the program would require.
- 004.03.E If the necessary amendments to the role and mission statutes supported by the Commission in its report to the Legislature are enacted, the program shall stand approved unless the Commission's conditional approval is rescinded prior to the implementation of the program.

## **005 REVIEW OF EXISTING PROGRAMS**

- 005.01 The primary purposes of the review of existing programs are to provide information to assist the institution and the governing board to improve the quality and effectiveness of the programs and to assist the Commission to exercise its responsibility to authorize continuation of the program or to discontinue the program.
- 005.02 The basic unit of review may be the academic department or equivalent academic organization unit with first-line responsibility for delivery and administration of instructional programs. The review shall focus on the instructional programs offered by the unit that are within the discipline or disciplines identified by the Commission for review during that year.
- 005.03 The schedule for the reviews shall be set by the Commission in consultation with the institutions. To the extent possible, while still allowing for timely review by the Commission, the reviews shall coincide with the institutional review and accreditation cycles.
- 005.04 The format for the program review reports sent to the Commission may be set by the Commission. The reports shall include materials upon which the



governing board made its decision.

005.05 Any program authorized by action of the Legislature or a governing board, and in existence prior to January 1, 1992, shall be considered approved until the approval is withdrawn by the Commission under these rules.

005.06 For each instructional program reviewed, the governing board shall authorize the institution to discontinue the program, or recommend that the Commission authorize continuation of the program, or direct the institution to initiate an in-depth review of the program.

005.07 Following action by the governing board, the institution shall submit program review reports to the Commission.

Program review reports for existing programs that are identified for discontinuation based on the results of a program review shall be submitted by the governing board to the Commission for information. No Commission action is required for discontinued programs.

Program review reports for existing programs designated by the governing board for in- depth review shall be submitted to the Commission for information. The institution shall submit the report of the in-depth review to the governing board. The governing board shall authorize the institution to discontinue the program or recommend that the Commission authorize continuation of the program.

005.08 Each existing program recommended by the governing board for continuation but which is not in substantial compliance with the review criteria established by the Commission shall be targeted by the Commission for in-depth review to be conducted by the public institution and its governing board. The in-depth review shall focus on the review criteria that were not met and shall be completed by a date set by the Commission.

005.09 Following an in-depth review directed by the Commission, the governing board shall submit to the Commission its findings and recommendations regarding continuation or discontinuation of the program.

005.10 If the Commission determines, following an in-depth review, that a program is not in substantial compliance with the criteria of the Commission, the Commission shall hold a public hearing, following thirty-days notice to the public institution, to consider if the program should be continued or discontinued. Following a hearing to consider whether a program should be continued or discontinued, the Commission shall take action to approve or disapprove continuance of the program. The Commission may monitor an approved program by requiring the institution to submit a periodic status report

on compliance with Commission criteria.

- 005.11 Existing programs disapproved for continuance by the Commission shall be terminated by the public institution on a date mutually agreed upon by which time all students in the program on the date of the decision of the Commission will have had a reasonable opportunity, as determined by the Commission, to complete the program or be otherwise accommodated.

## **006 REVIEW CRITERIA**

Review criteria for new and existing instructional programs shall include the following:

- 006.01 Centrality to the role and mission of the public institution. The instructional program shall be consistent with the institutional role and mission, as defined by law and in the Comprehensive Statewide Plan of the Commission. Except for new programs submitted for conditional approval under section 004.03, only those programs that are consistent with the institution's role and mission shall be approved.

- 006.02 Consistency with the Comprehensive Statewide Plan. The instructional program shall be consistent with the Comprehensive Statewide Plan as approved by the Commission.

- 006.03 Evidence of need. The instructional program shall meet significant educational needs of the state or service area and shall not unnecessarily duplicate other instructional programs.

- 006.03.A Evidence of need may include quantifiable data and/or qualitative information and may be tailored to be appropriate to the field of study.

- 006.03.B Prevention or elimination of unnecessary program duplication shall be a high priority of the Commission. The Commission will consider whether instructional programs are unnecessarily duplicative of similar offerings in their geographic service area, in other areas of the state, or in the region. The Commission will consider the availability of student exchange programs offered through the Midwestern Higher Education Compact, especially in the review of proposals for new programs.

- 006.03.C The Commission may, as appropriate, evaluate the extent to which the program will contribute to the economic development of the state by providing skilled employees or services for businesses located in the state or by attracting high quality firms to the state.

006.03.D The Commission may also consider societal needs. Some programs, such as those in selected liberal arts, humanities, or fine arts disciplines, may be justified because they offer individual and societal benefits that may be independent of labor force or market demand. Those programs may provide benefits to the state by instilling in citizens a capacity for advanced learning, by providing a source of new knowledge, by advancing understanding of the fundamentals of civilizations, by enhancing the quality of life through literature and the fine and performing arts, or by other similar outcomes.

006.04 Evidence of demand. The instructional program shall serve reasonable and appropriate numbers of students and produce sufficient credit hours.

006.05 Adequacy and efficient use of available resources. The instructional program shall have adequate resources to offer quality educational experiences for students and shall use its resources efficiently. The Commission strongly encourages the sharing of resources, such as telecommunications and instructional technologies, with other institutions of higher education. For each category of resources identified below, the institution shall identify the basis on which the conclusions about adequacy and efficiency were made.

006.05.A Faculty and Staff Resources. Faculty and staff resources shall be adequate for the instructional program, given the institution's mission, and the nature of the program.

006.05.B Library/Information Resources. Library resources shall be adequate and appropriate for the instructional program.

006.05.C Physical Facilities. Physical facilities shall be adequate to maintain the program.

006.05.D Instructional Equipment. Instructional equipment shall be adequate and appropriate for the program.

006.06 Assuring Quality and Effectiveness. The governing board shall provide assurance that the instructional program meets reasonable standards of quality and effectiveness such as the following:

006.06.A Curriculum. The institution provides a structured and coherent program of study with clearly delineated program objectives.

006.06.B Teaching. The instructional program encourages and supports the use of effective instructional practices in achieving educational objectives. Effective instructional practices in many disciplines

may include cooperative or collaborative learning, active engagement of the student with the material to be learned, and opportunity for interaction with faculty.

006.06.C Learning. The institution defines how the educational success of the program is measured. Reports on the reviews of existing programs include data regarding the achievements of the program according to those success indicators.

006.06.D Accreditation. As appropriate, the status of specialized program accreditation is considered.

006.07 Additional Information. The institution shall provide additional information to support the above criteria that, in the opinion of the Commission, is necessary to evaluate the program.

## **007 OTHER PROVISIONS**

007.01 The Commission shall adopt procedures to provide a waiver process for the authorization of short- term training and public service programs.

007.02 Parties wishing to appeal decisions of the Commission shall proceed as provided by law (refer to Section §85-1418 (4) N.R.S. 1943).

# **TITLE 281, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 5**

## **COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **RULES AND REGULATIONS CONCERNING THE STATE SCHOLARSHIP AWARD PROGRAM**

07/26/95 Amendment

## **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

07/25/02 Adoption

## CHAPTER 5 - RULES AND REGULATIONS CONCERNING THE STATE SCHOLARSHIP AWARD PROGRAM

### NUMERICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Purpose and Objectives	§85-981	001
Definitions	§85-982 through 85-992	002
Procedures for Administration	§85-993.01 through 85-999.01, §85-9,102 & 85-9,102.01	003
Appeal Procedure	§85-9,101	004

## ALPHABETICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Appeal Procedures	§85-9,101	004
Definitions	§85-982 through 85-992	002
Procedures for Administration	§85-993.01 through 85-999.01, §85-9,102 & 85-9,102.01	003
Purpose and Objectives	§85-981	001

### 001 PURPOSE AND OBJECTIVES

001.01 The purpose of the State Scholarship Award Program is:

- (1) To establish a financial assistance program to enable eligible students to receive educational services in an eligible postsecondary institution in Nebraska; and
- (2) To establish the procedure for the Coordinating Commission for Postsecondary Education to administer the federal State Student Incentive Grant Program for the State of Nebraska, as part of the State Scholarship Award Program.

The State Student Incentive Grant Program (SSIG) is authorized by Title IV of the Higher Education Act of 1965, as amended. This program provides incentive grants to states to encourage expansion or establishment of scholarship assistance to postsecondary students demonstrating substantial financial need. Each state receives an annual allotment based on the state's percentage of the total U.S. undergraduate enrollment in higher education.

### 002 DEFINITIONS

002.01 Commission shall mean the Coordinating Commission for Postsecondary Education.

002.02 Educational Expenses shall mean student costs for tuition, fees, room and

board, books, and other expenses as may be determined by the Commission.

- 002.03    Eligible Postsecondary Educational Institution shall mean a public or private institution located in Nebraska which: (1) is primarily engaged in the instruction of students; (2) is satisfying the provision of Nebraska law relating to the approval and licensure of schools, colleges, and universities and is maintaining accreditation by an accrediting organization recognized by the U.S. Department of Education; (3) is offering courses of instruction in regularly scheduled classes to regularly enrolled undergraduate students who have received high school diplomas or the equivalent, or are beyond the age of compulsory school attendance; and (4) is complying with the Commission's request for information needed in determining institutional allocations as set forth in 003.02 of the rules and regulations.
- 002.04    Eligible Student shall mean an individual who (1) is enrolled as a full- or part-time undergraduate student in an eligible program at an eligible institution; (2) is a United States citizen or natural, is a permanent resident of the United States, is a citizen of the Marshall Islands, the federated states of Micronesia, a permanent resident of Palau, or is an eligible non-citizen in the United States, (3) does not owe a refund on any Federal grants previously received at any postsecondary educational institution; (4) has substantial financial need as defined in 002.08 of the rules and regulations; and (5) is otherwise eligible to receive U. S. Department of Education Title IV student financial assistance.
- 002.05    Enrollment shall mean the establishment and maintenance of an individual's status as a student in a postsecondary institution, regardless of the definition used at that institution.
- 002.06    Full-time Student shall mean an individual who is enrolled in at least 24 semester credit hours, 36 quarter credit hours, or 900 clock hours per award year.
- 002.07    Undergraduate Student shall mean an individual who has not earned a first baccalaureate or professional degree and is enrolled in a postsecondary educational program which leads to, or is creditable toward, a first baccalaureate degree, associate degree, certificate, diploma, or equivalent.
- 002.08    Substantial Financial Need shall mean the need required by a student who is eligible to receive a Federal Pell Grant.
- 002.09    Full-time Equivalency shall mean: For all students with Expected Family Contributions (EFC's) between 0 and 500 for the previous award year, full-time equivalency shall mean the sum of (1) all eligible full-time students (each counted as 1.0) together with (2) the total number of credit or clock hours taken by eligible part-time students divided by 30 semester, 45 quarter, or 900

clock hours as appropriate. The determination of full-time students shall be based upon the directives in 002.06 of these rules and regulations and an award year shall be as defined in 002.11.

002.10 Award shall mean a grant of money to an eligible student for educational expenses.

002.11 Award Year shall mean the period from July 1st of one year through June 30th of the succeeding year.

002.12 Award Period shall mean that period of time, as defined by the institution, for which an award is given (example: semester, quarter, 450 contact hours, etc).

002.13 Eligible Program shall mean one that is Federal Pell Grant eligible as defined by federal regulations.

### **003 PROCEDURES FOR ADMINISTRATION**

#### **COMMISSION RESPONSIBILITIES**

003.01 The Commission shall distribute funds appropriated to the State Scholarship Award Program to eligible institutions for direct disbursement to eligible students.

003.02 The Commission shall allocate funds to eligible postsecondary educational institutions based upon the following procedure:

- (1) Determine the number of students enrolled at the institution in the last completed award year having an Expected Family Contribution of 0-500, and adjust to reflect full-time equivalency (FTE) as defined in 002.09 above. Documentation of FTE calculations shall be maintained for a minimum of five years.
- (2) Multiply the above amount by the institution's Federal Pell Grant cost of attendance for a single student with no dependents, living off campus, but not with parents, as specified in the Federal Pell Grant program regulations.
- (3) Divide the derived amount for each institution by the amount aggregated for all institutions to obtain the institution's allocation ratio; then
- (4) Multiply the total federal and state funds appropriated for the purpose of distribution pursuant to the State Scholarship Award Program by the ratio to obtain the institution's allocation.



### **INSTITUTIONAL RESPONSIBILITIES (as agents of the Commission)**

- 003.03 Student eligibility for financial aid shall be determined by participating institutions in accordance with the rules and regulations set forth above.
- 003.04 It is the intent of the Commission and the Nebraska State Legislature that institutions give priority to eligible full-time students, over part-time students, in the granting of awards.
- 003.05 Institutions shall make awards only to those students who have high school diplomas or the equivalents, or are above the age of compulsory school attendance (16 years) and have passed an independently administered examination approved by the U.S. Dept. of Education.
- 003.06 Institutions shall make awards without regard to race, creed, color, national origin, ancestry, age, sex, or handicap.
- 003.07 Each institution shall determine its own criteria for setting the minimum and maximum size of awards and shall make such criteria available to the Commission upon request. The institution shall not exceed the maximum amount as set forth in the terms and conditions governing the State Student Incentive Grant program.
- 003.08 Awards made by an institution shall cover at least one award period but no more than one award year. This does not prevent an institution from making awards to the same students in successive years.
- 003.09 An institution may redistribute to other eligible students any award balances returned in accordance with its refund policy. Award funds not distributed or redistributed within the award year in which the funds were allocated shall be returned to the Commission by the institution at a time specified by the Commission.
- 003.10 Maintenance of a recipient's record of award shall be the responsibility of the participating institution.
- 003.11 A Statement of Assurance, stating the intention of each eligible institution to follow the rules and regulations governing the State Scholarship Award Program and State Student Incentive Grant Program must be received by the Commission before an allocation to that institution will be made.
- 003.12 The institution shall provide a report verifying the award amount and eligibility of individual student recipients to the Commission by July 20 of the next award year. Institutions must provide this report in order to maintain eligibility for

participation in the program.

003.13 At the request of the Commission, the institution shall provide a report containing information on student recipients needed for federal reporting. Institutions must provide this report in order to maintain eligibility for participation in the program.

003.14 Institutional and student records are subject to normal auditing procedures by the federal government, the State of Nebraska, and the Coordinating Commission for Postsecondary Education. Additionally, an institution shall adopt and make available for inspection its refund and repayment policies upon request.

003.15 Aid may not be awarded or disbursed from this program if that aid, when combined with all other resources, would exceed the student's financial need.

#### **STUDENT RESPONSIBILITIES**

003.16 An individual receiving an award must sign a statement certifying that the award will be used for educational expenses only.

003.17 If the award recipient discontinues attendance before the end of an award period, the recipient shall remit to the institution any award balances in accordance with the institution's withdrawal or refund policy addressing that issue.

#### **004 APPEAL PROCEDURE**

004.01 Student appeals shall be made directly through the institution's financial aid appeal procedure.

004.02 Students who desire further consideration of an institutional decision may appeal, in writing, to the Coordinating Commission for Postsecondary Education within 21 calendar days of the institutional decision. The decision of the Commission shall be binding.

004.03 Institutions wishing to appeal decisions of the Commission, excepting those covered under 004.02 above, may do so by applying in writing to the Commission.

# **TITLE 281, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 6**

## **COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

#### **CHAPTER 6 - RULES AND REGULATIONS CONCERNING THE SCHOLARSHIP ASSISTANCE PROGRAM**

##### **NUMERICAL TABLE OF CONTENTS**

<b>SUBJECT</b>	<b>STATUTORY AUTHORITY</b>	<b>CODE SECTION</b>
Purpose and Objectives	§85-9,118	001
Definitions	§85-9,119 through 85-9,126	002
Procedures for Administration	§85-9,127 through 85-9,132	003
Appeal Procedure	§85-9,132.01	004

##### **ALPHABETICAL TABLE OF CONTENTS**

<b>SUBJECT</b>	<b>STATUTORY AUTHORITY</b>	<b>§CODE SECTION</b>
Appeal Procedures	§85-9,132.01	004
Definitions	§85-9,119 through 85-9,126	002

Procedures for Administration	§85-9,127 through 85-9,132	003
Purpose and Objectives	§85-9,118	001

## **001 PURPOSE AND OBJECTIVES**

- 001.01 The purpose of the Scholarship Assistance Program is to enhance the educational opportunities of Nebraska resident students by providing financial assistance to eligible students attending eligible postsecondary institutions.

## **002 DEFINITIONS**

- 002.01 Commission shall mean the Coordinating Commission for Postsecondary Education.
- 002.02 Eligible Postsecondary Educational Institution shall mean a public or private institution located in Nebraska which: (1) is primarily engaged in the instruction of students; (2) is satisfying the provision of Nebraska law relating to the approval and licensure of schools, colleges, and universities and is maintaining accreditation by an accrediting organization recognized by the U.S. Department of Education; (3) is offering courses of instruction in regularly scheduled classes to regularly enrolled undergraduate students who have received high school diplomas or the equivalent, or are beyond the age of compulsory school attendance; and (4) is complying with the Commission's request for information needed for determining institutional allocations as set forth in 003.02 of the rules and regulations.
- 002.03 Eligible Student shall mean an individual who is domiciled in Nebraska as provided in Nebraska Statute, Section 85-502, is enrolled as a full- or part-time undergraduate student in an eligible program at an eligible postsecondary institution, has established substantial financial need as defined in 002.06 of the rules and regulations, and is eligible to receive U.S. Dept of Education Title IV student financial assistance.
- 002.04 Enrollment shall mean the establishment and maintenance of an individual's status as a student in a postsecondary institution, regardless of the definition used at that institution.
- 002.05 Undergraduate Student shall mean an individual who has not earned a first baccalaureate or professional degree and is enrolled in a postsecondary educational program which leads to, or is creditable toward, a first

baccalaureate degree, associate degree, certificate, diploma, or equivalent.

002.06 Substantial Financial Need shall mean the need required by a student who is eligible to receive a Federal Pell Grant.

002.07 Award shall mean a grant of money to an eligible student for educational expenses.

002.08 Award Year shall mean the period from July 1st of one year through June 30th of the succeeding year.

002.09 Award Period shall mean that period of time, as defined by the institution, for which an award is given (example: semester, quarter, 450 contact hours, etc.)

002.10 Educational Expenses shall mean student costs for tuition, fees, room and board, books, and other expenses as may be determined by the Commission.

002.11 Eligible Program shall mean one that is Federal Pell Grant eligible as defined by federal regulations.

### **003 PROCEDURES FOR ADMINISTRATION**

#### **COMMISSION RESPONSIBILITIES**

003.01 The Commission shall distribute funds appropriated to the Scholarship Assistance Program to eligible institutions for direct disbursement to eligible students.

003.02 The Commission shall annually request from each eligible institution the dollar amount of Federal Pell Grant monies distributed to students within the last completed award year. Only those institutions providing this information are eligible for participation in the program.

Allocations to participating institutions for the upcoming year will be based upon the ratio of an institution's Federal Pell Grant distribution to the aggregate of all Federal Pell Grant distribution at all participating institutions within the State.

#### **INSTITUTIONAL RESPONSIBILITIES (as agents of the Commission)**

003.03 Maintenance of a recipient's record of award shall be the responsibility of the participating institution.

- 003.04 Awards made by an institution shall cover at least one award period but no more than one award year. This does not prevent an institution from making awards to the same students in successive years.
- 003.05 A Statement of Assurance, stating the intention of each eligible institution to follow the rules and regulations governing the Scholarship Assistance Program must be received by the Commission before an allocation to that institution will be made.
- 003.06 The institution shall provide a report verifying the award amount and eligibility of individual student recipients to the Commission by July 20 of the next award year. Institutions must provide this report in order to maintain eligibility for participation in the program.
- 003.07 An audit trail shall be established by each participating institution. Institutional and student records are subject to normal auditing procedures by the State of Nebraska and the Coordinating Commission for Postsecondary Education.
- 003.08 An institution may redistribute to other eligible students any award balance returned in accordance with its refund policy. Award funds not distributed or redistributed within the award year in which the funds were allocated shall be returned to the Commission by the institution at a time specified by the Commission.
- 003.09 Aid may not be awarded or disbursed from this program if that aid, when combined with all other resources, would exceed the student's financial need.

## **STUDENT RESPONSIBILITIES**

- 003.10 A student receiving an award under the Scholarship Assistance Program Act shall agree, in writing, to use the award for educational purposes only.
- 003.11 If the award recipient discontinues attendance before the end of an award period, the recipient shall remit to the institution any award balances in accordance with the institution's withdrawal or refund policy addressing that issue.

## **004 APPEAL PROCEDURE**

- 004.01 Student appeals shall be made directly through the institution's financial aid appeal procedure.
- 004.02 Students who desire further consideration of an institutional decision may

appeal, in writing, to the Coordinating Commission for Postsecondary Education within 21 calendar days of the institutional decision. The decision of the Commission shall be binding.

004.03 Institutions wishing to appeal decisions of the Commission, excepting those covered under 004.02 above, may do so by applying in writing to the Commission.

# **TITLE 281, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 7**

## **COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **RULES AND REGULATIONS CONCERNING THE POSTSECONDARY EDUCATION AWARD PROGRAM**

07/26/95 Amendment

## **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **CHAPTER 7 - RULES AND REGULATIONS CONCERNING THE POSTSECONDARY EDUCATION AWARD PROGRAM**

#### **NUMERICAL TABLE OF CONTENTS**

<b>SUBJECT</b>	<b>STATUTORY AUTHORITY</b>	<b>CODE SECTION</b>
Purpose and Objectives	§85-9,141	001
Definitions	§85-9,142 through 85-9,150	002
Procedures for Administration	§85-9,151 to 85-9,157, §85-9,159 & 85-9,160	003
Appeal Procedure	§85-9,158	004

07/25/02 Adoption



## ALPHABETICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Appeal Procedures	§85-9,158	004
Definitions	§85-9,142 through 85-9,150	002
Procedures for Administration	§85-9,151 to 85-9,157, §85-9,159 & 85-9,160	003
Purpose and Objectives	§85-9,141	001

### 001 PURPOSE AND OBJECTIVES

- 001.01 The purpose of the Postsecondary Education Award Program is to enhance the educational opportunities of Nebraska residents wishing to attend non-public, non-profit colleges or universities by providing financial assistance to eligible students attending eligible postsecondary institutions.

### 002 DEFINITIONS

- 002.01 Commission shall mean the Coordinating Commission for Postsecondary Education.
- 002.02 Eligible Postsecondary Educational Institution shall mean a not-for-profit institution located in Nebraska which: (1) is neither controlled nor administered by any state agency or by any political subdivision of the state; (2) is primarily engaged in the instruction of students; (3) is accredited by an accrediting organization recognized by the U.S. Department of Education; (4) is offering courses and programs of instruction in regularly scheduled classes to regularly enrolled undergraduate students who have received high school diplomas or the equivalent or are beyond the age of compulsory school attendance; and (5) is complying with the Commission's request for information needed in determining institutional allocations as set forth in 003.02 of the rules and regulations.
- 002.03 Eligible Student shall mean an individual who is domiciled in Nebraska as provided in Nebraska Revised Statutes, Section 85- 502, is enrolled as a full-

or part-time undergraduate student in an eligible program at an eligible postsecondary institution, has established substantial financial need as defined in 002.07 of the rules and regulations, and is eligible to receive U.S. Dept of Education Title IV student financial assistance.

002.04 Enrollment shall mean the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the definition used at that institution.

002.05 Full-time Student shall mean an individual who is enrolled in at least 24 semester credit hours or 36 quarter credit hours per award year.

002.06 Undergraduate Student shall mean an individual who has not earned a first baccalaureate or professional degree and is enrolled in a postsecondary educational program which leads to, or is creditable toward, a first baccalaureate degree, associate degree, certificate, diploma, or equivalent.

002.07 Substantial Financial Need shall mean the need required by a student who is eligible to receive a Federal Pell Grant.

002.08 Award shall mean a grant of money to an eligible student for educational purposes.

002.09 Award Year shall mean the period from July 1st of one year through June 30th of the succeeding year.

002.10 Award Period shall mean that period of time, as defined by the institution, for which an award is given (example: semester, quarter, 450 contact hours, etc.)

002.11 Educational Expenses shall mean student costs for tuition, fees, room and board, books, and other expenses as may be determined by the Commission.

002.12 Eligible Program shall mean one that is Federal Pell Grant eligible as defined by federal regulations.

### **003 PROCEDURES FOR ADMINISTRATION**

#### **COMMISSION RESPONSIBILITIES**

003.01 The Commission shall distribute funds appropriated to the Postsecondary Education Award Program to eligible institutions for direct disbursement to eligible students.

003.02 To determine the allocation amount for each institution, the Commission

shall:

- (a) Determine the number of students enrolled at each eligible postsecondary institution in the last completed award year with an Expected Family Contribution of 900 or less;
- (b) Multiply that number by the institution's average educational expenses for all full-time undergraduate students for the last completed award year;
- (c) Divide the product obtained in (b) for each eligible institution by the total sum of all products derived in (b) for all eligible institutions; and
- (d) Multiply the total state funds appropriated to the Postsecondary Education Award Program by the ratio derived in (c).

#### **INSTITUTIONAL RESPONSIBILITIES (as agents of the Commission)**

003.03 It is the intent of the Commission and the Nebraska State Legislature that institutions give priority to eligible full-time students, over part-time students, in the granting of awards.

003.04 Institutions shall make awards without regard to race, creed, color, national origin, ancestry, age, sex, or handicap.

003.05 Each institution shall determine its own criteria for setting the minimum and maximum size of awards and shall make such criteria available to the Commission upon request.

003.06 Awards made by an institution shall cover at least one award period but no more than one award year. This does not prevent an institution from making awards to the same students in successive years.

003.07 Maintenance of a recipient's record of award shall be the responsibility of the participating institution.

003.08 A Statement of Assurance, stating the intention of each eligible institution to follow the rules and regulations governing the Postsecondary Education Award Program must be received by the Commission before an allocation to that institution will be made.

003.09 The institution shall provide a report verifying the award amount and eligibility of individual student recipients to the Commission by July 20 of the next award year. Institutions must provide this report in order to maintain eligibility for participation in the program.

- 003.10 Institutional and student records are subject to normal auditing procedures by the State of Nebraska and the Coordinating Commission for Postsecondary Education. Additionally, an institution shall adopt and make available its refund and repayment policies upon request.
- 003.11 An institution may redistribute to other eligible students any award balance returned in accordance with its refund policy. Award funds not distributed or redistributed within the award year in which the funds are allocated shall be returned to the Commission by the institution at a time specified by the Commission.
- 003.12 Aid may not be awarded or disbursed from this program if that aid, when combined with all other resources, would exceed the student's financial need.

### **STUDENT RESPONSIBILITIES**

- 003.13 An individual receiving an award must sign a statement certifying that the award will be used for educational expenses only.
- 003.14 If the award recipient discontinues attendance before the end of an award period, the recipient shall remit to the institution any award balances in accordance with the institution's withdrawal or refund policy addressing that issue.

### **004 APPEAL PROCEDURE**

- 004.01 Student appeals shall be made directly through the institution's financial aid appeal procedure.
- 004.02 Students who desire further consideration of an institutional decision may appeal, in writing, to the Coordinating Commission for Postsecondary Education within 21 calendar days of the institutional decision. The decision of the Commission shall be binding.
- 004.03 Institutions wishing to appeal decisions of the Commission, excepting those covered under 004.02 above, may do so by applying in writing to the Commission.

## **(NOTE: CHAPTER 8 - RULES AND REGULATIONS REPEALED)**



# **TITLE 281, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 9**

## **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **RULES AND REGULATIONS CONCERNING CAPITAL CONSTRUCTION**

#### **CHAPTER 9 - RULES AND REGULATIONS CONCERNING CAPITAL CONSTRUCTION**

##### **NUMERICAL TABLE OF CONTENTS**

<b>SUBJECT</b>	<b>STATUTORY AUTHORITY</b>	<b>CODE SECTION</b>	
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LAST ISSUE DATE: APRIL 15, 1992

## 001 CONSTITUTIONAL AUTHORITY

Applicable sections of the Constitution of the State of Nebraska, Edited 1992, include article VII -- Education, section 14, relating to the establishment and authority of the Coordinating Commission for Postsecondary Education including:

001.01 Authority to adopt and revise as needed, a Comprehensive Statewide Plan for Postsecondary Education which shall include plans for facilities which utilize *tax funds designated by the Legislature*.

001.02 Authority to review, monitor and approve or disapprove each public postsecondary educational institution's *capital construction project* which utilizes *tax funds designated by the Legislature* in order to provide compliance and consistency with the Comprehensive Statewide Plan and to prevent *unnecessary duplication*.

001.03 Authority to review and modify, if needed to promote compliance and consistency with the Comprehensive Statewide Plan and prevent *unnecessary duplication*, the budget requests of each public postsecondary educational institution's *governing board*.

001.04 Additional powers and duties provided to the *Commission* by the Legislature, related to postsecondary education as long as such powers and duties do not invade the governance and management authority of the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges as provided in the Constitution of Nebraska.

## 002 STATUTORY AUTHORITY

Applicable Nebraska Statutes include:

002.01 Revised Statutes of Nebraska 1943, Reissue of 1994, sections 85-401, 85-1401, 85-1402 (1), (2), (3), (4), (6) and (7), 85-1414 (1), (9), (10) and (11), 85-1416 (3), and 85-1418, relating to *Commission* review of *master facilities plans*, proposed *capital construction projects* and proposed capital budget requests.

002.02 Revised Statutes of Nebraska 1943, Reissue of 1994, sections 85-1511 (4) and 85- 1536 (3), relating to coordination by the *Commission* of the construction, lease, purchase, purchase on contract, operation, equipping, and maintenance of facilities for community colleges.

002.03 Revised Statutes of Nebraska 1943, Reissue of 1994, section 85-180.14, relating to *Commission* approval of the construction and operation of facilities for the veterinary medicine and surgery program at the University of Nebraska.

002.04 Revised Statutes of Nebraska 1943, Reissue of 1994, sections 85-404, 85-408 and



85-1415, relating to *Commission* review and recommendation of revenue bond and surplus fund projects for the University of Nebraska and Nebraska State Colleges.

### 003 SCOPE AND RELATED PROVISIONS

003.01 These rules and regulations relate to:

003.01A *Commission* review of and comment about *public institutional Master Facilities Plans*;

003.01B *Commission* review, monitoring, and approval or disapproval of applicable *capital construction projects*;

003.01C *Commission* review and recommendation of applicable *revenue bond projects*; and

003.01D *Commission* review and recommended modification, approval or disapproval of the University of Nebraska's and Nebraska State Colleges' capital budget requests and development of a unified statewide prioritization of these requests.

003.02 The *Commission* shall coordinate its responsibilities with both the Executive and Legislative branches of State government, and the *governing and/or coordinating board's* of the State's *public institutions*.

003.03 The review of proposed *master facilities plans, capital construction projects, revenue bond projects* and capital budget requests shall be subject to the rules contained herein, the Comprehensive Statewide Plan, the Statewide Facilities Plan, the *Commission's* budgetary review process, and such other rules, regulations and procedures as shall be promulgated by the *Commission*.

003.04 The footnote section contained herein shall not be construed as a part of the Rules of the *Commission* but is used for illustrative purposes only.

### 004 DEFINITIONS

004.01 *Capital construction project* shall mean a project which utilizes *tax funds designated by the Legislature* and shall be: Any proposed new *capital structure*; any proposed addition to, *renovation* of, or *remodeling* of a *capital structure*; any proposed acquisition of a *capital structure* by gift, purchase, lease-purchase, or other means of construction or acquisition that 1) will be *directly financed* in whole or in part with *tax funds designated by the Legislature* totaling at least the *minimum capital expenditure* for purpose of the definition, or 2) is likely, as determined by the institution, to result in an *incremental increase* in appropriation or expenditure of *tax funds designated by the Legislature* of at

least the *minimum capital expenditure* for the facility's operations and maintenance costs<sup>11</sup> in any one fiscal year within a period of ten years from the date of substantial completion of the project. For purposes of this definition:

004.01A *Directly financed* shall mean funded by: 1) Appropriation of *tax funds designated by the Legislature* for the specific *capital construction project*, 2) property tax levies used to establish capital improvement and bond sinking funds pursuant to section 85-1515 of the Revised Statutes of Nebraska 1943, Reissue of 1994, or 3) that portion of *tax funds designated by the Legislature* and appropriated by the Legislature for the general operation of the *public institution* and utilized to fund the *capital construction project*.

004.01B *Incremental increase* shall mean an increase in appropriation or expenditure of *tax funds designated by the Legislature* of at least the *minimum capital expenditure* for a facility's operations and maintenance costs, beyond any increase due to inflation, to pay for a *capital structure's* operations and maintenance costs that are a direct result of a *capital construction project*.

004.01C *Minimum capital expenditure* shall mean: 1) for purposes of construction or acquisition pursuant to this definition of *capital construction project*, a base amount of two hundred thousand dollars, and 2) for facility's operations and maintenance costs pursuant to this definition of *capital construction project*, a base amount of fifty thousand dollars for any one fiscal year. Both base amounts shall be subject to any inflationary or market adjustments made by the *Commission* pursuant to this definition. The *Commission* shall adjust the base amounts on a biennial basis beginning January 1, 1996. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and maintenance costs, as selected by the *Commission* in cooperation with the *public institutions*. The index or indices shall reflect inflationary or market trends for the applicable operation and maintenance or construction costs.

004.02 *Capital project* shall mean, for the purpose of prioritizing the *Commission's* Statewide Capital Budget Recommendation, every proposed project included in a *governing board's* capital budget requests.

004.03 *Capital structure* shall mean anything constructed or erected, for occupancy, use or ornamentation, that requires permanent location on, below or above the ground, or an addition to an existing *capital structure* having a permanent location on or below the ground.

004.04 *Change in scope* shall mean a significant change in a *capital construction project*, as specifically defined in *Commission* procedures, to include but not be limited to: 1) A

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<sup>11</sup> . <sup>1</sup> Examples of facility's operations and maintenance costs include: Utilities, custodial service, building maintenance, landscape and grounds maintenance, physical plant administration, security, mail service, communications service and property insurance.

substantial increase in the amount of *tax funds designated by the Legislature* used to construct, acquire or provide facilities' operations and maintenance, 2) a significant change in the use of funds<sup>22</sup>, 3) a considerable change in the allocation of square footage for any *major room-use category(s)*, or 4) a programmatic change involving who and/or for what purpose a major room-use serves.

004.05 *Commission* shall mean the Coordinating Commission for Postsecondary Education.

004.06 *Coordinating board* shall mean the Nebraska Community College Association.

004.07 *Governing board* shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of governors for each community college area.

004.08 *Major capital deficit appropriation request* shall mean any individual *capital project* in excess of the *minimum capital expenditure* and included in a *governing board's* capital deficit appropriation request.

004.09 *Major room-use categories* shall mean the major room uses outlined in Chapter 2 of the Postsecondary Education Facilities Inventory and Classification Manual, 1992.<sup>33</sup>

004.10 *Master facilities plan* shall mean a plan that identifies a *public institution's* existing facilities, their condition, and outlines the institution's short-term, mid-term and long-range facilities needs.

004.11 *Need statement* shall mean a document that provides a preliminary description of a proposed *capital construction project* or *revenue bond project*. The *need statement* is an optional document that may be submitted to the *Commission*. The *Commission* will provide a preliminary evaluation of a project with the review criteria established in these rules and regulations. The content to be provided in a *need statement* shall be in such format as provided by the *Commission*.<sup>44</sup>

004.12 *Program statement* shall mean a document that describes and supports the development of a proposed *capital construction project* or *revenue bond project*. A *program statement* provides more detailed information than a *need statement*. The content to be provided in a *program statement* shall be in such format as provided by the *Commission*.<sup>5</sup>

004.13 *Project statement* shall mean an abbreviated *program statement* used to support the development of a proposed *capital construction project* or *revenue bond project* of

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<sup>2</sup> . <sup>2</sup> Example: Reallocating a majority of funds previously allotted for movable equipment to construction.

<sup>3</sup> . <sup>3</sup> These categories include: Classrooms, laboratories, offices, study facilities, special-use facilities, general-use facilities, support facilities, health-care facilities, residential facilities and unclassified facilities.

<sup>4</sup> . <sup>4</sup> *Need, Program and Project Statement* Outlines provided by the *Commission* shall coordinate with existing State formats and *public institutional* requirements for use of such documents by design professionals.

lessor scale or certain type as specifically defined in *Commission* procedures. The content to be provided in a *project statement* shall be in such format as provided by the *Commission*.<sup>5</sup>

004.14 *Public institution* shall mean any of the following: University of Nebraska-Lincoln, University of Nebraska Medical Center, University of Nebraska at Omaha, University of Nebraska at Kearney, Nebraska College of Technical Agriculture, Chadron State College, Peru State College, Wayne State College, Central Community College, Metropolitan Community College, Mid-Plains Community College, Northeast Community College, Southeast Community College, Western Nebraska Community College, including any other campus administered as a separate unit by a *governing board*, or any other public postsecondary educational institution which may be established by the Legislature after January 1, 1992.

004.15 *Remodeling or renovation* shall mean work associated with an existing *capital structure* which may include, but shall not be limited to, modifying or upgrading a *capital structure's* building systems. Such work may include upgrading mechanical or electrical systems, or modifying interior construction systems through changes in room layouts or relocation of openings. This work shall not increase the gross square footage of the structure. Replacement of existing wall, floor or ceiling treatments due to age or damage, or other similar work shall not be considered *remodeling* or *renovation*. Deferred maintenance projects, fire and life safety projects, Americans with Disabilities Act projects, or energy conservation projects, as defined by the LB 309 Task Force for Building Renewal, shall not constitute *remodeling* or *renovation*.

004.16 *Revenue bond project* shall mean all proposed projects, to be financed by revenue bond issues or surplus or replacement funds, approved by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges, pursuant to sections 85-404 and 85-408, Revised Statutes of Nebraska 1943, Reissue of 1994. Any single expenditure for surplus or replacement fund projects shall be in excess of one hundred thousand dollars.

004.17 *Tax funds designated by the Legislature* shall mean all State tax revenue and all property tax revenue.

004.18 *Unnecessary duplication* shall mean any *capital structure*, or portion of a *capital structure*, that does not substantially increase access and/or serve valid needs considering the existence of other available and suitable facilities.<sup>55</sup>

## 005 MASTER FACILITIES PLANNING

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<sup>5</sup> . <sup>5</sup> Examples of *unnecessary duplication* include, but shall not be limited to unnecessarily duplicative facilities within an institution, sector, state or region.

#### 005.01 Applicability

All institutional *Master Facilities Plans*, or amendments to such plans, approved by a *governing board* after January 1, 1992, shall require *Commission* review and comment in accordance with these rules and regulations.

005.02 Review Criteria for a *public institution's Master Facilities Plan* shall include the following:

005.02A Compliance and consistency with the Comprehensive Statewide Plan. Proposed *Master Facilities Plans* shall be reviewed for compliance and consistency with the Comprehensive Statewide Plan as applicable. Areas of compliance and consistency shall include, but not be limited to, compatibility of the *Master Facilities Plan* with an institution's role and mission assignment.

005.02B Compliance and consistency with the Statewide Facilities Plan. Proposed *Master Facilities Plans* shall be reviewed for compliance and consistency with the Statewide Facilities Plan. Areas addressed shall include, but not be limited to, consistency of the *Master Facilities Plan* with institutional programmatic planning efforts.

005.02C Assess duplication of facilities. Institutional *Master Facilities Plans* shall be reviewed for possible *unnecessary duplication* of facilities.

#### 005.03 Commission Review

005.03A Governing boards shall inform the *Commission*, in writing, of all *Master Facilities Plans*, or amendments to such plans, to be submitted to the *governing board* for action.

005.03B Prior to submitting a *Master Facilities Plan*, or amendments to such plan, for *Commission* review and comment, the plan or amendment shall first receive written approval by the *governing board*. Evidence of *governing board* approval shall accompany the plan to the *Commission* and shall include all material submitted to the *governing board* for approval.

005.03C The *Commission* shall establish guidelines for the format and content of each *public institution's Master Facilities Plan*.

005.03D The *Commission* shall provide comment to the *governing board* on the *Master Facilities Plan's* compliance and consistency with the review criteria in these rules and regulations. The *Commission* may recommend modification to the *public institution's Master Facilities Plan* based on its review.

005.03E The *Commission* may require periodic updates of *public institutional Master*

*Facilities Plans* as necessary.

005.03F In fulfilling its review of and comments about *public institutional Master Facilities Plans*, the *Commission* shall recognize educational activities among all segments of postsecondary education and take into account the educational programs, facilities, and other resources of public and private postsecondary educational institutions.

## 006 CAPITAL CONSTRUCTION PROJECTS

### 006.01 Applicability

The following *capital construction projects* proposed by *public institutions* shall require *Commission* review, approval or disapproval, and monitoring for compliance with the approved project, in accordance with these rules and regulations:

006.01A Any proposed new *capital structure*; any proposed addition to, *renovation* of, or *remodeling* of a *capital structure*; any proposed acquisition of a *capital structure* by gift, purchase, lease-purchase, or other means of construction or acquisition that will be *directly financed* in whole or part with *tax funds designated by the Legislature* totaling at least the *minimum capital expenditure*.

006.01B Any proposed new *capital structure*; any proposed addition to, *renovation* of, or *remodeling* of a *capital structure*; any proposed acquisition of a *capital structure* by gift, purchase, lease-purchase, or other means of construction or acquisition that is likely, as determined by the institution, to result in an *incremental increase* in appropriation or expenditure of *tax funds designated by the Legislature* of at least the *minimum capital expenditure* for the facility's operations and maintenance costs in any one fiscal year within a period of ten years from the date of substantial completion of the project.

006.02 Review Criteria for proposed *capital construction projects* shall include the following:

006.02A Compliance and consistency with the Comprehensive Statewide Plan. Proposed projects shall show compliance and consistency with the Comprehensive Statewide Plan as applicable to a specific project. Areas of compliance and consistency shall include, but not be limited to, the compatibility of a project with an institution's role and mission assignment.

006.02B Compliance and consistency with the Statewide Facilities Plan. Proposed projects shall demonstrate compliance and consistency with the Statewide Facilities Plan. Areas addressed shall include, but not be limited to, compliance and consistency with an institution's *Master Facilities Plan* as reviewed by the *Commission*.

006.02C Assess duplication of facilities. Institutions presenting a proposed project for *Commission* review shall illustrate that the project is not an *unnecessary duplication* of capital facilities.

006.03 *Commission Review*

006.03A *Governing boards* shall inform the *Commission*, in writing, of all *capital construction projects* to be submitted to the *governing board* for action.

006.03B Prior to submitting a *capital construction project* for *Commission* action, that project shall first receive written approval of a *program statement* by the *governing board*. For *capital construction projects* of certain scale and/or type, the *Commission* may accept submittal of a *project statement* in lieu of a *program statement*. Evidence of *governing board* approval shall accompany the project to the *Commission* and shall include all material submitted to the *governing board* for approval of the *capital construction project*. *Governing boards* may choose, at their discretion, to submit a *need statement* to the *Commission* for comment prior to submittal of a *program statement*.

006.03C Action by the *Commission* regarding approval or disapproval of a capital construction project shall consist of one of the following:

006.03C1 Approval of the project as the basis for further development; or

006.03C2 Disapproval of the project based on inconsistency of the project with one or more review criteria in these rules and regulations, with reasons explicitly stated.

006.03D *Capital construction projects* previously disapproved by the *Commission* may be resubmitted by a *governing board* with changes that address the *Commission's* reasons for the original disapproval. The *Commission* shall then review and approve or disapprove the resubmitted project proposal.

006.03E A *change in scope* to any *capital construction project* previously approved by the *Commission* shall require resubmittal of the project to the *Commission* for review, approval or disapproval, and monitoring for compliance with the approved project. This rule applies for all subsequent phases of a project through construction.

006.03F Any *capital construction project* authorized prior to January 1, 1992, by action of the Legislature (including receipt of appropriations) or action of a *governing board* (previously approved *need* or *program statements*), shall be deemed approved by the *Commission* unless there is a *change in scope* to the project.

006.03G Unless a *capital construction project* has been reviewed and approved by the *Commission*, no *tax funds designated by the Legislature* shall be expended for an

*incremental increase in a capital construction project's operations and utilities costs, of more than the minimum capital expenditure.*

006.03H In fulfilling its review authority for *capital construction projects*, the *Commission* shall recognize educational activities among all segments of postsecondary education and take into account the educational programs, facilities, and other resources of public and private postsecondary educational institutions.

## **007 REVENUE BOND PROJECTS**

### 007.01 Applicability

The following *revenue bond projects* proposed by *public institutions* shall require *Commission* review and recommendation, in accordance with these rules and regulations:

All proposed *revenue bond projects*, to be financed by revenue bond issues or surplus or replacement funds, approved by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges, pursuant to sections 85-404 and 85-408, Revised Statutes of Nebraska 1943, Reissue of 1994. Any single expenditure for surplus or replacement fund projects shall be in excess of one hundred thousand dollars.

### 007.02 Review Criteria for proposed *revenue bond projects* shall include the following:

007.02A Compliance and consistency with the Comprehensive Statewide Plan. Proposed projects shall show compliance and consistency with the Comprehensive Statewide Plan as applicable to a specific project. Areas of compliance and consistency shall include, but not be limited to, the compatibility of a project with an institution's role and mission assignment.

007.02B Compliance and consistency with the Statewide Facilities Plan. Proposed projects shall demonstrate compliance and consistency with the Statewide Facilities Plan. Areas addressed shall include, but not be limited to, compliance and consistency with an institution's *Master Facilities Plan* as reviewed by the *Commission*.

007.02C Assess duplication of facilities. Institutions presenting a proposed project for *Commission* review shall illustrate that the project is not an *unnecessary duplication* of capital facilities.

007.02D Sufficient information to review the proposal. Institutions presenting a proposed project for *Commission* review shall provide sufficient information for the *Commission* to review and make a recommendation.



### 007.03 Commission Review

007.03A *Governing boards* shall inform the *Commission*, in writing, of all *revenue bond projects* to be submitted to the *governing board* for action.

007.03B Prior to submitting a *revenue bond project* for *Commission* action, that project shall first receive written approval of a *program statement* by the *governing board*. For *revenue bond projects* of certain scale and/or type, the *Commission* may accept submittal of a *project statement* in lieu of a *program statement*. Evidence of *governing board* approval shall accompany the project to the *Commission* and shall include all material submitted to the *governing board* for approval of the *revenue bond project*, including a finance plan as applicable per statute. *Governing boards* may choose, at their discretion, to submit a *need statement* to the *Commission* for comment prior to submittal of a *program statement*.

007.03C Action by the *Commission* regarding a recommendation to the Legislature or the Executive Board of the Legislative Council for a *revenue bond project* shall consist of one of the following:

007.03C1 Recommendation for approval of the project as the basis for further development; or

007.03C2 Recommendation for disapproval of the project based on inconsistency of the project with one or more review criteria in these rules and regulations, with reasons explicitly stated.

007.03D In fulfilling its review authority for *revenue bond projects*, the *Commission* shall recognize educational activities among all segments of postsecondary education and take into account the educational programs, facilities, and other resources of public and private postsecondary educational institutions.

## **008 CAPITAL BUDGET REQUESTS AND RECOMMENDATIONS**

### 008.01 Applicability

008.01A The following *capital projects* shall be included in the *Commission's* review, and recommendation for modification, approval or disapproval, of capital budget requests. Such projects shall be included in the *Commission's* Statewide Capital Budget Recommendation in accordance with these rules and regulations:

All proposed *capital construction projects* approved by the *Commission* and included in the Board of Regents of the University of Nebraska's and Board of Trustees of the Nebraska State Colleges' Biennial Capital Construction Budget Requests or *major capital deficit appropriation requests*.

008.01B The following *capital projects* shall be prioritized by the *Commission* for inclusion in the *Commission's* Statewide Capital Budget Recommendation in accordance with these rules and regulations:

All *capital projects* included in the Board of Regents of the University of Nebraska's and Board of Trustees of the Nebraska State Colleges' Biennial Capital Construction Budget Requests, LB 309 Task Force for Building Renewal Requests and any capital deficit appropriation requests.

008.02 Review Criteria for proposed Capital Construction Budget Requests and *major capital deficit appropriation requests* shall include the following:

008.02A Compliance and consistency with the Statewide Facilities Plan. *Governing board's* Capital Construction Budget Requests and *major capital deficit appropriation requests* shall demonstrate compliance and consistency with the Statewide Facilities Plan. Areas of review shall include, but not be limited to, compliance with an institution's *Master Facilities Plan* as reviewed by the *Commission*.

008.02B Consistency with previous *capital construction project* approvals or disapprovals. The *Commission* shall only recommend to the Governor and Legislature those *capital construction projects* approved by the *Commission* prior to the statutory deadline for submittal of the *governing board's* Capital Construction Budget Requests or *major capital deficit appropriation requests*. The *Commission* shall not recommend *capital construction projects* which it has previously disapproved unless such projects are resubmitted and approved by the *Commission*.

008.03 *Commission Review and Prioritization*

008.03A The Board of Regents of the University of Nebraska and Board of Trustees of the Nebraska State Colleges shall each submit to the *Commission* information the *Commission* deems necessary to review the *governing board's* capital budget requests.

008.03B The *Commission* shall review each *governing board's* Capital Construction Budget Request and *major capital deficit appropriation request*, and shall recommend modification, approval or disapproval of such Requests to the Governor and Legislature.

008.03C The *Commission* shall develop a Statewide Capital Budget Recommendation for submittal to the Governor and Legislature. The Statewide Capital Budget Recommendation shall include a unified statewide prioritization of the following *capital project* proposals:

008.03C1 Each *capital construction project* previously reviewed and approved

by the *Commission* and included in a *governing board's* Capital Construction Budget Request and each *major capital deficit appropriation request* reviewed by the *Commission*;

008.03C2 All other *capital projects* included in a *governing board's* Capital Construction Budget Request including any other capital deficit appropriation request; and

008.03C3 The LB 309 Task Force for Building Renewal Request by category (fire & life safety, deferred maintenance, energy conservation, and Americans with Disability Act projects) and Classification (I, II and III).

008.03D Unless a *capital construction project* has been reviewed and approved by the *Commission*, *governing boards* shall not submit a request for *tax funds designated by the Legislature* to provide an *incremental increase* in a *capital construction project's* operations and maintenance costs, of more than the *minimum capital expenditure*.

## **009 GENERAL CONSIDERATIONS**

009.01 The *Commission* shall provide procedures to implement these rules and regulations.

009.02 The *Commission* shall be the determining body to approve or disapprove *capital construction project* proposals. Parties wishing to appeal decisions of the *Commission* shall proceed as provided by law.

TITLE 281, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 10  
COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
RULES AND REGULATIONS CONCERNING OFF-CAMPUS PROGRAMS  
IN THE STATE OF NEBRASKA

TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
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TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
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001     Statutory Authority

- 001.01 85-1402 - Relating to pertinent definitions.
- 001.02 85-1413(5)(f) - Relating to the Commission's responsibility to designate geographic/programmatic service areas for public institutions.
- 001.03 85-1413(5)(h) - Relating to guiding development of instructional delivery systems employing telecommunications and establishment of policies to ensure that the objectives of quality and efficiency are met in the delivery of telecommunications-aided instruction.
- 001.04 85-1414(8) - Relating to authority for the Commission to establish specific criteria for review, approval or disapproval of participation by public institutions in education centers.
- 001.05 85-1418 - Relating to the authority for the Commission to issue orders and to the procedures for parties to appeal final orders of the Commission.

002     Scope, Application, and Related Provisions

- 002.01 This rule shall apply to the Coordinating Commission for Postsecondary Education's review of public institution off-campus programs and participation in education centers, including off-campus centers, off-campus sites and cooperatives of institutions.
- 002.02 Provisions of this rule relating to Education Centers shall apply to a public institution's participation in Education Centers approved by governing board action after November 6, 1990, except those programs for which funds were specifically earmarked by the Legislature for fiscal year 1990-1991.

TITLE 281  
CHAPTER 10

- 002.03 This rule shall apply to off-campus centers approved by governing board action after July 1, 1994. Approval for an off-campus center by the Commission shall remain in effect until the terms and conditions of such approval are substantially changed. At that time the approval shall be reconsidered by the Commission.
- 002.04 Institutional role and mission authorizations are designated in state statute as well as in the Commission's Comprehensive Statewide Plan for Postsecondary Education. Geographic/programmatic service area assignments are designated in the Commission's Comprehensive Plan.
- 002.05 Provisions related to review of new or existing instructional programs, to review of budgets as applicable to specific budget requests for off-campus instructional programs, to review of capital construction projects, and to public service activities may be found in other rules and procedures approved by the Commission.

003 Purpose and Intent

- 003.01 The purposes of this rule are to coordinate public institution off-campus instructional courses and programs and to coordinate public institution participation in Education Centers, including off-campus centers and cooperatives of institutions. The Commission supports coordinated and distinct roles for various institutions and supports collaboration and partnerships to avoid unnecessary duplication.
- 003.02 The Commission finds that responsive and flexible off-campus instruction can provide efficient access to postsecondary education for place-bound students. The Commission intends to facilitate and guide effective fiscal planning and efficient, cooperative delivery of off-campus instructional programs needed to meet the needs of Nebraskans for reasonably accessible, quality postsecondary education.
- 003.03 The Commission endorses and encourages inter-institutional cooperative planning of off-campus courses and programs, both within and outside the service area, to maximize sharing of resources needed for student registration and advising, facilities, equipment and libraries. Off-campus courses and programs shall, where possible, be housed in facilities made available without cost or in rented facilities rather than facilities owned by the institution.
- 003.04 The Commission finds that telecommunications-based off-campus instruction can be an efficient means to provide access to postsecondary education for place and time-bound students without the need for a public institution to employ notable numbers of additional professional staff or incur substantial travel expense.

004 Definitions

- 004.01 Commission shall mean the Coordinating Commission for Postsecondary Education.



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- 004.02 Executive Director shall mean the Executive Director of the Coordinating Commission for Postsecondary Education or the Executive Director's designee.
- 004.03 Public Institution shall mean any of the following: University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, University of Nebraska Medical Center, Nebraska College of Technical Agriculture, Chadron State College, Peru State College, Wayne State College, Central Community College Area, Metropolitan Community College Area, Mid-Plains Community College Area, Northeast Community College Area, Southeast Community College Area, Western Nebraska Community College Area, including any other campus administered as a separate unit by a governing board, or any other public postsecondary educational institution which may be established by the Legislature after January 1, 1992.
- 004.04 Principal Campus shall mean the main campus or campuses of University of Nebraska-Lincoln, in Lincoln; of the University of Nebraska at Omaha, in Omaha; of the University of Nebraska at Kearney, in Kearney; of the University of Nebraska Medical Center, in Omaha; of the Nebraska College of Technical Agriculture, in Curtis; of Chadron State College, in Chadron; of Peru State College, in Peru; of Wayne State College, in Wayne; of Central Community College in Grand Island, Hastings, and Columbus; of Metropolitan Community College in Omaha and Elkhorn; of Mid-Plains Community College in North Platte and McCook; of Northeast Community College in Norfolk; of Southeast Community College in Beatrice, Lincoln, and Milford; and of Western Nebraska Community College in Scottsbluff.
- 004.05 Branch campus shall mean a new campus of a public institution, established after the effective date of this rule, which houses a full range of instruction, research, and public service, as appropriate to institutional role and mission assignment, as well as administrative and support services.
- 004.06 Education Center, as statutorily defined, shall mean an off-campus center of a public institution or a cooperative of either public or public and private postsecondary educational institutions which offers instructional programs to students.
- 004.06.a Off-Campus Center shall mean a facility at which a public institution either i) offers a complete degree program or ii) offers 50% or more of the courses leading to a complete degree program at the site and enrolls 100 or more students (unduplicated headcount) in an academic year; and which is not a principal campus or a cooperative education center of that institution.
- 004.06.b Cooperative Education Center shall mean a facility used by two or more postsecondary educational institutions for the delivery of off-campus programs. A cooperative education center facility is not owned by a postsecondary education institution.

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- 004.07 Off-Campus Site shall mean a facility used by a public institution for off-campus programs other than as herein defined as a cooperative education center, an off-campus center, or facilities of a cooperating Institution.
- 004.08 Cooperating Institution shall mean a postsecondary educational institution which permits another institution to use its facilities for off-campus program instruction.
- 004.09 Institution shall mean a Nebraska postsecondary educational institution.
- 004.10 Off-Campus Courses or Programs shall mean one or more college credit courses or degree programs, including telecommunications-based courses or degree programs, offered by a public institution at a location other than at its principal campus. Off-campus courses or programs exclude credit courses offered where a business or agency has entered into an agreement with the credit-granting public institution to provide specified instruction solely for those who are employees of the business or agency.
- 004.11 Telecommunications shall mean electronic communication media and includes, but is not limited to, communications satellites, terrestrial microwave, television, radio, telephone, fiber optics, and computer communications.
- 004.12 Telecommunications-based courses or programs shall mean off-campus courses or programs emanating from a sending institution by telecommunications. The receiving site may be at a principal campus or branch campus, or at an off-campus center, cooperative education center, off-campus site, or cooperating institution. Excluded from Commission review under this rule are: 1) Courses or programs offered completely or primarily through on-line computer technologies; 2) courses or programs provided by telecommunications to the personal residence of individual students; 3) courses or programs provided by employers to employees at their workplace via telecommunications, and not offered to the public; and 4) courses using telecommunications primarily to enhance or supplement instruction.
- 004.13 Sending institution shall mean a postsecondary education institution which has principal responsibility to provide the instruction and which transmits such instruction to a receiving site or sites via telecommunications.
- 004.14 Receiving institution shall mean the postsecondary education institution which participates in telecommunications-based courses provided by the sending institution. An institution sending telecommunications-based courses to its own off-campus

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receiving site(s) is both the sending and the receiving institution.<sup>6</sup>

004.15 Sending site shall mean a facility from which the sending institution emanates the instruction for students at receiving sites.

004.16 Receiving site shall mean a facility in which students assemble to participate in telecommunications-based courses provided by a sending institution. A receiving site may be a principal campus, branch campus, off-campus center, cooperative education center, off-campus site, or cooperating institution.

005 Pre-Authorized Off-Campus Courses or Programs and Facilities Arrangements

In the following cases, off-campus courses or programs and facilities arrangements of public institutions are pre-authorized and do not require prior notification or Commission approval.

005.01 A public institution may offer telecommunications-based courses or programs that emanate in Nebraska for use exclusively outside the State of Nebraska.

005.02 Except for courses offered at an off-campus center described in section 007.02, a public institution may deliver off-campus courses within its geographic service area as assigned by the Commission.

005.03 A public institution may deliver off-campus courses or programs at cooperative education centers when the institution has received authorization from the Commission to participate in the cooperative education center.

005.04 A public institution may offer a course or program outside its geographic-service area at the principal campus of another public institution under the same governing board if the course or program is not offered regularly by a public institution assigned to the service area in which the proposed course or program would be offered.

005.05 A public institution may make lease or other use arrangements for a term of one year or less for use of buildings at a cooperating institution, at an off-campus center, or at an off-campus site without prior Commission approval.

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<sup>6</sup>When two or more institutions jointly offer the same course, where control of the course essentially is equal, an institution can be both the sending and receiving institution. If there is an objection, the Commission may determine which shall serve as the sending institution for application and reporting purposes.

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006 Prior Notification: Out-of service area courses: Inventory

006.01 Public institutions shall make prior notification to the Commission and other public institutions within the geographic service area where the activities are proposed: following

006.01.01 Establishing an off-campus center.

006.01.02 Offering one or more complete degree programs at a cooperating institution.

006.02 A public institution may deliver off-campus courses at locations outside its geographic service area as assigned by the Commission, if the institution:

006.02.01 Provides notification, under Commission procedures, to all public institutions assigned to the geographic service area in which the course or courses will be offered. The Commission shall specify the notification procedure, which will allow for communication by mail, fax or e-mail, and a deadline for submitting an objection to the Commission: and

006.02.02 Receives written approval, communicated via the mail, fax, or e-mail, from the Executive Director of the Commission or from the Executive Director's designee prior to inception of the course or courses

An institution may appeal a decision of the Executive Director to the Commission.

The Executive Director may refer a proposed course or proposed courses to the Commission for action. The Executive Director shall report to the Commission at each regular meeting on all proposals received and actions taken under this section.

006.03 The Commission may authorize a public institution to offer specified courses or types of courses at a specified location or locations outside its geographic service area and may extend that authority until such time as it is revoked by the Commission.

006.04 The Commission will maintain a current inventory of off-campus centers, cooperative education centers, and degree programs offered at cooperating institutions and public institutions under the same governing board. Public institutions will provide information to the Commission regarding such off-campus activities.

007 Off-Campus Instructional and Facility Arrangements Requiring Prior Commission Approval

Prior approval of the Commission shall be required in the following situations:

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007.01 Establishing a branch campus.

007.02 Establishing an off-campus center within 30 miles, by the most direct route on a hard-surfaced roadway, of a principal campus of another public institution on which are offered courses or degree programs comparable in content and intended student outcomes to those offered at the off-campus center.

Prior to Commission review and approval of an off-campus center pursuant to this subsection, representatives of the public institution establishing such off-campus center shall notify, and are encouraged to meet and consult with, representatives of public institutions maintaining a principal campus within the distance parameter specified in this section to discuss coordination of program offerings. A representative of the institution planning to establish the off-campus center may make a written report to the Commission of the results of such consultation. The Commission may also initiate and facilitate meetings of representatives of public institutions impacted by a proposed off-campus center and may expedite its review for approval of the off-campus center if issues of unnecessary duplication have been addressed.

The provisions of this subsection shall also apply when a public institution plans to offer one or more complete degree programs at a cooperating institution located within 30 miles, by the most direct route on a hard-surfaced roadway, of a principal campus of another public institution on which are offered courses or degree programs comparable in content and intended student outcomes to those offered at the off-campus center.

007.03 Participating in a cooperative education center.

007.04 Making a commitment to facilities for longer than one year at a cooperating institution, an off-campus center, or off-campus site.

008 Criteria for Review of Off-Campus Courses or Programs and Facilities

When prior approval of the Commission is required pursuant to section 007 of this rule, or when action of the Commission is required pursuant to subsection 006.0136, the Commission will use the following criteria to review proposed off-campus courses or programs and facilities:

- 008.01 Evidence of need and demand, which shall include, but not be limited to, recognized needs by employers and potential students for the off-campus courses or programs and sufficient projected student enrollment in off-campus courses or programs.
- 008.02 Consistency with authorized institutional role and mission pursuant to state statute and the Commission's *Comprehensive Statewide Plan for Postsecondary Education* and consistency with institutional program service area authority approved by the

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Commission.

008.03 Avoidance of unnecessary duplication of similar course or program offerings by another institution in the same service area.

008.04 Adequacy of resources for instruction which shall include:

008.04.a Adequate and appropriate physical facilities and instructional equipment for the off-campus courses or program and for the targeted student population.

008.04.b Adequate and appropriate library, information resources, and other student support services for the off-campus courses or program and for the targeted student population consistent with the scope and nature of the program.

008.04.c Adequate and appropriate faculty and faculty-related academic resources for the off-campus courses or program.

008.05 Avoidance of long-term commitments unless there is substantial evidence of continuing need and demand.

009 Commission Review and Determination

Commission review of applications submitted under this rule shall be based on criteria in section 008 and in accordance with procedures established by the Commission. Applications submitted under this rule must be approved by the appropriate governing board or by institutional officials to whom the board has delegated the authority to submit applications.

009.01 The Commission may make such determinations as are necessary to assure compliance with this rule and applicable statutes. The Commission may review authorized or preauthorized activities if circumstances so warrant.

009.02 Upon receipt of a proposal for an off-campus course, program or facility requiring prior Commission approval pursuant to section 007 of this rule, the Commission shall hold a public hearing on the proposal, following notice to the public institution making such proposal and those impacted by such proposal. The Commission shall either approve or disapprove such proposal at a regularly scheduled meeting following such public hearing.

009.02 If the Commission receives a written complaint or objection regarding an off-campus program of an institution or receives a written appeal of a decision made by the Executive Director under section 006.02 communicated via the mail or electronically, the Commission shall review and take appropriate action with consideration as to the impact on affected students.

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- 009.03 Pursuant to Section 85-1418 R.R.S. the Commission may issue orders to public institutions to cease activities not in compliance with this rule. Parties wishing to appeal final orders of the Commission shall proceed as provided in Section 85-1418 R.R.S.

010 Notification

Notification of proposed off-campus programming and/or facilities arrangements by an institution required under Commission procedures shall be specific to that request. Public institutions shall not waive notification or provide blanket approval to another institution's proposed off-campus programming or facilities arrangements.

011 Reporting and Other Considerations

- 011.01 Public institutions shall annually report information to the Commission concerning all off-campus courses or programs pursuant to procedures established by the Commission.
- 011.02 The Commission shall provide such procedures and timelines as are necessary to implement this rule.

## **TITLE 281 - NEBRASKA ADMINISTRATIVE CODE CHAPTER 11**

### **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

#### **RULES AND REGULATIONS CONCERNING REVIEW OF PUBLIC INSTITUTIONS' BUDGET AND STATE AID REQUESTS**

06/16/94 Revision

#### **CHAPTER 11 - RULES AND REGULATIONS CONCERNING REVIEW OF PUBLIC INSTITUTIONS' BUDGET AND STATE AID REQUESTS**

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Scope and Purpose	§85-1411 and 85-1416	003
Statutory Authority	§85-1401, 85-1402, 85-1404, 85-1412, 85-1413 and 85-1416	002

## 001 CONSTITUTIONAL AUTHORITY



001.01 Applicable Sections of the Constitution of the State of Nebraska include:

001.01A Constitution of the State of Nebraska, Edited 1992, Article VII - Education, Section 14, relating to Commission review and modification of budget requests of the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, any board or boards established for the Community Colleges, or any other governing board for any other public postsecondary educational institution which may be established by the Legislature.

## **002 STATUTORY AUTHORITY**

Sections 85-1401; 85-1402(2), (4), (6), and (7); 85-1404(2) and (3); 85-1412(1) and (2); 85-1413(5)(d)(g) and (j); 85-1416(1), (2)(a), (b), (c), and (4); relating to the Commission's review of budgets, state aid requests, and major deficit appropriation requests (R.R.S.).

Nebraska Revised Statutes, Section 85-1412(12) relating to the Commission's allocation of incentive funds.

## **003 SCOPE AND PURPOSE**

The Commission shall adopt, amend, repeal, or otherwise implement such rules, regulations, guidelines, and procedures as the Commission deems necessary to continue its ongoing constitutional and statutory responsibility to review, study, recommend, and modify public institutional budget requests if needed to promote compliance and consistence with the Comprehensive Statewide Plan and prevent unnecessary duplication.

A review of budget outlines, budget priorities and tuition levels shall be subject to the rules contained herein, the Statewide Comprehensive Plan, and such other rules, regulations, guidelines, and procedures as shall be promulgated by the Commission.

The purpose of the budget review process is to (1) demonstrate the institution's compliance and consistence with the Comprehensive Statewide Plan, (2) examine consistency with the institution's role and mission, (3) consider major statewide funding issues or initiatives, and (4) prevent unnecessary duplication within an institution, a sector, the state, or region.

The primary focus of budget and budget priority reviews is on new and expanded services and programs and major statewide funding issues or initiatives.

Any footnotes contained herein shall not be construed as a part of the rules of the Commission, but are used for illustrative purposes only.

## **004 DEFINITIONS**

004.01 Commission shall mean the Coordinating Commission for Postsecondary Education.

004.02 Governing Board shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of

governors for each community college area.

004.03 Public Institution shall mean any of the following: the University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, University of Nebraska Medical Center, Nebraska College of Technical Agriculture, Chadron State College, Peru State College, Wayne State College, Central Community College Area, Metropolitan Community College Area, Mid- Plains Community College Area, Northeast Community College Area, Southeast Community College Area, Western Nebraska Community College Area, including any other campus administered as a separate unit by a governing board, or any other public postsecondary educational institution which may be established by the Legislature after January 1, 1992.

004.04 Modify/Modifications shall mean changes recommended by the Commission to budget requests, state aid requests, budget priority lists, or major deficit requests of public institutions, to ensure compliance and consistency with the Comprehensive Statewide Plan and prevent unnecessary duplication.

004.05 Budget Request, as defined by the Revised Statutes of Nebraska, shall mean the complete recitation, on forms prescribed by the Governor's Budget Division and in the manner prescribed by such division, of the operating funds requests of a public institution for the biennium next following the then current biennium.

004.06 New and Expanded Budget Request shall mean the request for funding approved or anticipated new programs, expanded services, or workload increases in the next biennium; for replacing other revenue sources with general fund support; and for funding increases associated with the prior year's deficit appropriation.

004.07 Budget Priorities shall mean those goals and objectives, with associated funding, comprising a public institution's new and expanded budget request.

004.08 Deficit Appropriation Request shall mean the additional funds requested to supplement the current biennium appropriation.

004.09 Unnecessary Duplication shall mean inefficient replication of functions or activities within a public institution, within a sector, or within the State.

004.10 Incentive Funds shall mean those special purpose funds used to support priorities of the Commission to achieve consistency and compliance with the Comprehensive Statewide Plan, state goals and priorities, or planned state objectives or other special purpose funds designated to the Commission by the Legislature.

004.11 Outline shall mean the informational summaries provided to the institution's governing board describing the respective institution's budget for the next fiscal year or biennium including projections of funds for retention of current programs and services, inflationary costs necessary to maintain current programs and services, and proposed new and expanded programs and services.

004.12 Outcomes shall mean those definable, measurable quality and/or quantity indicators, as defined by the institutions, used to assess progress toward

and/or achievement of stated goals and objectives of continuation budgets and budget priorities.<sup>78</sup>

## **005 INSTITUTIONAL REPORTING**

005.01 The Board of Regents of the University of Nebraska and Board of Trustees of the Nebraska State Colleges shall submit outlines of their biennial budget requests, and major deficit budget requests, along with any other supporting information deemed necessary by the institution or requested by the Commission to identify the major components necessary for the Commission to determine the institution's compliance and consistency with the Comprehensive Statewide Plan and the existence of any unnecessary duplication, to the Commission at least 30 days prior to the required date of submission of the public institution budget requests to the Governor and the Legislature.

005.02 The Boards of Governors of the Community Colleges or their designated representatives shall submit to the Commission on September 15th of each biennial budget request year outlines of their proposed state aid requests, along with any other supporting information deemed necessary by the institution or requested by the Commission to identify the major components necessary for the Commission to determine the institution's compliance and consistency with the Comprehensive Statewide Plan and the existence of any unnecessary duplication.

## **006 BUDGET REQUEST**

The submission of the institution's budget request information shall consist of an outline, as defined by the Commission, together with such necessary supporting information as may be required by the Commission to identify the major components necessary for the Commission to determine the public institution's compliance with criteria stated in 008. The Commission shall review and modify budget requests, deficit appropriation requests, and state aid requests of governing boards as provided by law.

## **007 INSTITUTIONAL BUDGET PRIORITIES**

Submission of budget priorities shall include information as defined by the Commission. Priorities shall be in the context of the Comprehensive Statewide Plan, institutional role and mission and prevention of unnecessary duplication. Priorities shall include proposed outcomes. The Commission shall analyze and submit to the Governor and Legislature recommendations for approval or modification of each governing board's budget priority request together with a rationale for each such recommendation.

## **008 BUDGET REVIEW CRITERIA**

Review criteria for Budget Requests and Budget Priorities shall include:

008.01 Compliance and Consistency with the Comprehensive Statewide Plan. The budget requests, state aid requests, deficit appropriation requests, and budget priorities shall demonstrate compliance and consistency with the Comprehensive Statewide Plan, through appropriately supplied institutional

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<sup>7</sup> Examples: Graduation rates, graduate placement rates, program completers, research results, cost containment, market share, facility square foot usage, student retention, or any other key indicator that demonstrates accomplishment of stated goals.

data as requested by the Commission.

008.02 Compliance with the Role and Mission Requirements. The budget requests, state aid requests, deficit appropriation requests, and budget priorities shall be consistent and comply with the role and mission of the institution, as defined by law.

008.03 Prevention of Unnecessary Duplication. The prevention of unnecessary duplication in the use and allocation of funds shall be a high priority of the Commission. Budget requests and budget priorities shall not contribute to unnecessary duplication.

## **009 ADDITIONAL CONSIDERATIONS**

009.01 Commission modifications, approvals, and/or recommendations shall be submitted to the Governor and the Legislature by October 15th of each year.

009.02 The Commission may recommend to the Governor and the Legislature establishment of incentive funds to achieve consistency with the Comprehensive Statewide Plan's goals for postsecondary education.

009.03 As appropriate, the Commission shall allocate state incentive funds among public institutions pursuant to statutory directives to the Commission authorizing such funds.

009.04 The Commission shall provide to the Governor and the Appropriations Committee of the Legislature on October 1st of each even-numbered year a report identifying public policy issues relating to student tuition and fees.

009.05 The Commission may conduct surveys and studies it deems appropriate and may in the conduct of same, request information from governing boards and appropriate administrators of public institutions and other governmental agencies.

009.06 The Commission may make such determinations as are necessary to assure compliance with this rule and applicable statutes.

009.07 Nothing in these rules shall be construed to affect other constitutional, statutory, or administrative requirements for the submission of budget or state aid requests by the governing boards, or designated representatives, to the Governor and the Legislature.

## **TITLE 281 - NEBRASKA ADMINISTRATIVE CODE CHAPTER 12**

12/7/92 Adoption

## **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

### **CHAPTER 12 - RULES AND REGULATIONS FOR PROCEEDURES AND PRACTICE IN CONTESTED CASES, FOR DECLARATORY RULINGS, AND FOR PETITIONS TO ADOPT, AMEND OR REPEAL RULES AND REGULATIONS**

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## **001 STATUTORY AUTHORITY**

Section 84-909 of the Revised Statutes of Nebraska (R.R.S.) requires each state agency to adopt rules governing the formal and informal procedures prescribed or authorized by Sections 84-901 and 84-909 to 84-916 R.R.S. The statute also requires that such rules shall include rules of practice before the agency together with forms and instructions. Section 84-912 (R.R.S.) requires each state agency to adopt rules governing declaratory ruling petitions. In addition, Section 84-910 (R.R.S.) directs each state agency to adopt rules governing petitions for the adoption, repeal, and amendment of rules.

## **002 SCOPE AND APPLICATION OF THIS RULE**

This Chapter governs contested case hearings and appeal procedures before the Coordinating Commission for Postsecondary Education. In addition, this Chapter deals specifically with declaratory rulings. This chapter is not applicable to appeal or hearing procedures which have been specified by statute or by other rules or regulations of the Coordinating Commission for Postsecondary Education. Practice and procedure before the Coordinating Commission are also governed by the applicable Revised Statutes of Nebraska and by decisions of Nebraska and federal courts relating to contested cases heard by the Commission. This Chapter also governs procedures for petitions to the Commission requesting the Commission to adopt new rules and regulations, or amend or repeal existing rules and regulations.

## **003 DEFINITIONS**

As used in this Chapter, unless the contract requires otherwise:

003.01 Applicant shall mean any private or public institution of higher education seeking the approval of the Commission to take any action specified in Section 003.03 of this Chapter.

003.02 Commission shall mean the Coordinating Commission for Postsecondary Education.

003.03 Contested Case shall mean a proceeding before the Coordinating Commission for Postsecondary Education in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a hearing. Contested cases before the Commission may include, but are not limited to:

1. Action by the Commission to discontinue instructional programs pursuant to §85-1414 (5) (R.R.S);
2. An action by the Commission to approve or disapprove proposed new instructional programs pursuant to §85-1414 (2) and (3) (R.R.S.);
3. An action by the Commission to approve operation in Nebraska of new two or four-year private colleges pursuant to §85-1105 (R.R.S.);
4. An action by the Commission to authorize out-of-state institutions to offer instructional programs in the State pursuant to §85-1102 (R.R.S),
5. An action by the Commission to authorize public institutions to operate outside of their assigned geographic/programmatic service area pursuant to §85-1413 (5)(f) (R.R.S);
6. An action by the Commission to approve or disapprove public institution

- participation in an education center pursuant to §85-1414(8) (R.R.S);
7. An action by the Commission to approve or disapprove capital construction project proposals of public institutions pursuant to §85-1414 (10) (R.R.S.),
8. An action by the Commission to approve or disapprove revenue bond finance of capital construction projects of public institutions pursuant to §§85-1415, 85-401, 85-403, 85-404, and 85-408 (R.R.S.);
9. An action by the Commission to approve or disapprove the establishment of new colleges, schools, major divisions or institutions within a public institution pursuant to §85-1402 (5) and 85-1414 (R.R.S.);
10. An action to change the role and mission assignment of any public institution as authorized in §§85-121, 85-121.03 (2), 85-121.05, 85-943, 85-945, 85-947.01, 85-952, 85-956, 85- 958, and 85-963 (R.R.S.);
11. An action by the Commission to provisionally accredit private colleges pursuant to §85-1111 (R.R.S.); and
12. An action by the Commission to determine allocation of funds and institutional participation in student financial aid programs pursuant to §§85-890 et seq., §§85-9,132 et. seq. or §§85- 9,141 et. seq. (R.R.S.).

003.04 Executive Director shall mean the Executive Director of the Coordinating Commission for Postsecondary Education.

003.05 Petitioner shall mean any person, public institution, or other entity or organization that (1) files a petition for a declaratory ruling of the Commission; or (2) files a petition requesting that the Commission initiate proceedings to promulgate, amend or repeal a rule or regulation.

003.06 Public Institution shall mean each campus of a public postsecondary educational institution, which is or may be established by the Legislature, which is under the direction of a governing board, and which is administered as a separate unit by the board; including the University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, University of Nebraska Medical Center, the Nebraska College of Technical Agriculture, Chadron State College, Peru State College, Wayne State College, Central Community College, Metropolitan Community College, Mid-Plains Community College, Northeast Community College, Southeast Community College and Western Nebraska Community College.

003.07 Rule or regulation shall mean any rule, regulation or standard issued by the Commission, including the amendment or repeal thereof whether with or without prior hearing and designed to implement, interpret or make specific the laws enforced or administered by the Commission or governing its organization or procedure, but not including regulations concerning the internal management of the Commission not affecting private rights, private interests, or procedures available to the public.

## **004 PURPOSE AND INTENT**

The Commission finds that the approval processes specified in Section 003.03 are quasi-legislative, quasi-executive and quasi-judicial in nature. The Commission was created by the voters and Legislature of Nebraska to coordinate public postsecondary educational institutions in the state. The Commission sees the coordinative function as essentially a guiding, facilitative process which is not primarily adversarial in tone. With the exception of the



Commission's responsibility with respect to private postsecondary educational institutions of higher education, the Commission's approval authority stands in relation to the legal authority of other state institutions and political subdivisions.

Therefore, it is the intent of the Commission in this chapter to comply with the notice and hearing procedures and other procedures requirements of the Administrative Procedures Act and provide appropriate due process of law and yet remain consistent with the coordinating function of the Commission. To that end, this rule provides a minimum of the formal practice procedures which are more suitable to a judicial role and an adversarial context and encourages informal dispute resolution and public hearing requirements. The Commission will honor the request of parties to hearings of the Commission to use of rules of evidence applicable to district court as prescribed in §84-914 (R.R.S.)

In addition to the public hearing requirement pursuant to §85-913 (R.R.S.), the Commission may schedule purely informational hearings pursuant to any of its responsibilities and duties assigned by law.

## **005 NOTICE AND PUBLIC HEARINGS IN CONTESTED CASES**

005.01 Except for those hearings specified in §005.02A, the Commission will give at least two weeks public notice in one or more newspapers of general circulation prior to public hearings in contested cases. The notice shall state the time, place, issues involved in the public hearing and the Commission's authority to take action on the issue. In the alternative, the Commission may give notice via circulation in its regular meeting agenda for public hearings to be held in conjunction with regular meetings of the Commission. The Commission shall also mail or personally deliver a copy of the notice of hearing to each applicant and party specifically impacted pursuant to any of the statutes listed in Section 003.03 of the chapter.

005.02 The Commission will hold public hearings in the following situations:

005.02A Prior to any final Commission action on issues arising under §§85-1102 or 85-1105 (R.R.S.) and prior to Commission action to discontinue instructional programs at public institutions pursuant to §85-1415(5) (R.R.S.)

005.02B Prior to final Commission action on issues arising under §§85-121, 85-121.03(2), 85-121.05, 85-401, 85-403, 85-404, 85-408, 85-890, 85-901, 85-945, 85-947.01, 85-952, 85-956, 85-958, 85-963, 85-1111, 85-1402(5), 85-1413(5)(f), 85-1414(2)(3)(8)(10), 85-1415, 85-9,132, 85-9,141.

005.03 Conduct of Hearings

005.03A The Chair of the Commission, or an appropriate committee, or a hearing officer designated by the Commission, shall preside at the hearing, open and close the proceeding, enter the notice of hearing into the record, and receive testimony. Formal rules of evidence shall not apply to public hearings of the Commission unless an applicant, who may appeal the Commission's decision to the courts of the state, has submitted a written request that the Commission be bound by the rules of evidence applicable to district court and has agreed to be liable for all costs incurred thereby. When the rules of evidence applicable to the district court apply, the presiding officer shall rule

on motions, objections and matters of evidence.

005.03B Reasonable opportunity shall be afforded all parties to present evidence and argument. The presiding officer may set reasonable time limits on presentations and arguments.

005.03C Failure of the applicant to appear at the time and place set for hearing, unless otherwise allowed by the Commission for good cause shown, shall be deemed sufficient grounds for the Commission to dismiss the petition.

005.03D Informal procedures governing the conduct of hearings shall be subject to the discretion and the direction of the presiding officer at the time of such hearings, unless otherwise specified in this Chapter.

005.04 Commission Review of Hearing Officer Cases. In cases where a hearing officer has conducted the hearing and made findings of fact, conclusions of law, and a recommendation to the Commission, the Commission shall make such materials a part of its record, together with a transcript of the proceedings and may, at its discretion, allow the parties the opportunity to make further summary arguments before the Commission.

## **006 DISPOSITION OF CONTESTED CASES**

006.01 Informal Disposition. Pursuant to Section 84-913 (R.R.S.), informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

006.02 Official Record. The Commission shall prepare an official record in each case which shall include testimony and exhibits, but recorded testimony need not be transcribed except as indicated in this section. When a judicial appeal is taken, the Commission shall prepare and file a transcript with the court which shall consist of copies of the application, exhibits, and orders in the case. An electronic recording of the hearing shall be made, but it will not be transcribed unless requested by a party, in which case it will be prepared upon the tender of the cost of preparation. Alternatively, the Commission on its own motion may authorize the use of a court reporting service to record the hearing, or may do so upon the motion of any party, in which case the requesting party or parties shall pay the costs of such service. The cost of obtaining verbatim transcripts from a court reporting service shall be paid directly to such service by the parties requesting a copy of the transcripts from the Commission.

006.03 Findings of Fact and Conclusion of Law. Pursuant to §84-915 (R.R.S.), every decision or order adverse to an applicant or other specifically impacted parties to a contested case proceeding shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Applicants or other specifically impacted parties may submit proposed findings of fact and conclusions of law for consideration by the Commission at the time of hearing, or subsequent to the hearing if directed by the Commission.

006.04 Preparation of Orders. Upon direction of the Commission, the Executive Director shall prepare and issue on behalf of the Commission a final order in any contested case incorporating findings of fact, conclusions of law, and the decision on the

case arrived at by the Commission. The Executive Director shall have the authority to sign such orders on behalf of the Commission.

006.05 Notification. The Executive Director shall notify applicants and other specifically impacted parties of the final decision or order of the Commission by certified mail, return receipt requested.

006.06 Appeals. §84-917 and 85-1418(4) (R.R.S.) refer to procedures for appeal to the district courts of Nebraska for contested cases, and require that such action be taken within 30 days after the service of the final decision.

## **007 DECLARATORY RULINGS**

007.01 Statutory Authority and Applicability of Other Regulations. §84-912 (R.R.S.) provides that on petition of any interested person, the Commission may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Commission. The statute also provides that the Commission shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Except as hereinafter set forth, the other sections of this Chapter relating to contested cases are not applicable to declaratory ruling procedures.

007.02 Effect. §84-912 (R.R.S.) provides that a declaratory ruling, if issued after argument and stated to be binding, is binding between the Commission and the petitioner on the state of facts alleged unless it is altered or set aside by a court.

007.03 Form of Declaratory Ruling Petitions. (A sample petition is included as Appendix A.) A petition for a declaratory ruling shall be typed double-spaced on 8 1/2 x 11 inch white paper and shall:

007.03A Show the venue: "BEFORE THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION, STATE OF NEBRASKA";

007.03B Contain a heading specifying the subject matter, and the name and address of petitioner;

007.03C Contain a concise statement of the grounds upon which the Board's authority or jurisdiction depends;

007.03D Contain a specific statement regarding the legal capacity of the petitioner to instigate the proceedings;

007.03E Concisely set forth all material facts upon which the declaratory ruling is asked plus a demand for the relief to which the petitioner alleges he or she is entitled;

007.03F State the names and addresses of all known persons, political subdivisions, corporations, organizations, or other entities who have or claim any interest that would be affected by a declaration by the Commission;

007.03G Be subscribed and notarized by the petitioner, or by a duly

authorized officer of the petitioner, if it be a corporation.

007.04 Submission and Service of Declaratory Ruling Petitions

007.04A The original and twelve copies on three-hole punched paper of each petition for a declaratory ruling shall be filed with the Executive Director of the Coordinating Commission for Postsecondary Education at P. O. Box 95005, Lincoln, NE 68509-5005 or 140 North Eighth, Suite 300, Lincoln, Nebraska 68508, by mail or in person during normal business hours of the Commission.

007.04B At the same time the petition is filed, the petitioner shall serve the Attorney General by certified mail, return receipt requested, with a copy of any petition in which a declaratory ruling is requested with respect to the constitutionality or validity of any rule or statute enforceable by the Commission, and shall file proof of such service with the Executive Director's office within seven days of the return of the receipt. The petitioner shall also serve a copy of the petition by certified mail, return receipt requested, on all interested parties, including all persons, political subdivisions, corporations, organizations, or other entities who are known to have or claim any interest, legal right, duty, or privilege which would be directly affected by a declaration of the Commission; attach a certificate of service; and file proof of such service with the Executive Director's office within seven days of the return of the receipt. Personal or residence service on interested parties may be used.

007.04C At the same time the petition is filed, a notice of the option to file a response should be attached and served on all interested parties, indicating that they may file a response within 21 days and that a copy of this Chapter is enclosed with the petition sent to each interested party. Extra copies of this Chapter are available from the Commission. (A sample notice and certificate of service are included in the Appendix.) The petition shall include a list of all interested parties to whom the notice of option to file a response was served.

007.04D Return of Contested Case Petitions. If the petition appears to the Executive Director not to comply with the procedural requirements of 007.04A and 007.04B, he or she shall return it to the petitioner, stating the reasons, and shall notify all interested parties that the petition has been returned. In such a case, the petitioner may file an amended petition. If the petitioner does not file an amended petition or appeal the rejection to the Commission within 30 days, the petition shall be considered to be dismissed.

007.05 Response by Interested Parties. Any interested party may file a response to the petition. A sample response is included in Appendix B to this Chapter. It shall consist of the same type of heading as required for petitions, except that it shall contain the word "Response." A response shall advise all parties of the nature of the objection to the petition, if any, and shall specifically admit or deny any material allegation contained in the petition. It shall be subscribed and verified by the interested party, or by a duly authorized officer of a corporate interested party. The Response shall be filed with the Executive Director's office within twenty-one calendar days from when the date service was completed, unless waived by the Commission for good cause shown. A copy of the response shall be served on the petitioner by regular first-class mail, postage prepaid, and a certificate of service affixed to the Response, a sample of which is contained in

Appendix B to this Chapter.

007.06 Hearings on Declaratory Ruling Petitions. The Commission shall set the time and place for any hearing on a petition for a declaratory ruling which shall be any time at least seven days after the deadline for the filing of all responses, unless agreement to set an earlier time for hearing is stipulated by all parties, and the Commission elects to set at such an earlier time. The Executive Director shall serve notice of such hearing by return receipt requested, to the petitioner and to the Attorney General, if applicable, and to interested parties listed in the petition or who have filed responses. The petitioner shall reimburse the Commission for the cost of such service prior to the hearing.

007.07 Disposition of Declaratory Ruling Petitions

007.07A The provisions of sections 006.01 and 006.02 of this Chapter relating to informal disposition and preparation of official records in contested cases shall also be applicable to declaratory ruling proceedings.

007.07B Disposition of Declaratory Ruling Petitions. The Commission, after considering the contents of the petition, and any testimony or evidence presented if a hearing is held, will dispose of the petition in one of the following manners, with notice of such action given by the Executive Director by regular U.S. mail to the petitioner and any interested party:

007.07B1 Dismiss the petition and decline to enter a declaratory ruling, which is within the statutory discretion of the Commission in such matters; or

007.07B2 Issue a declaratory ruling either affirmative or negative in form and effect, which, if issued after argument and stated to be binding, by statute is binding between the Commission and petitioner on the state of facts alleged unless it is altered or set aside by a court.

**008 RULES PETITIONS**

008.01 Statutory Authority. Section 84-910 (R.R.S.) provides that any interested person may petition the Commission requesting the promulgation, amendment, or repeal of any rule, and that the Commission shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition.

008.02 Form of Rules Petition. A sample petition is contained in Appendix C of this chapter. A petition for the promulgation, amendment, or repeal of any rule subject to the authority or jurisdiction of the Department shall be typed double spaced on 8 1/2 x 11 inch white paper and shall:

008.02A Show the venue: "BEFORE THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION, STATE OF NEBRASKA";

008.02B Be entitled "In the matter of . . . , " specifying the subject matter and the name and address of petitioner;

008.02C Contain a specific statement regarding the legal capacity of the

petitioner to instigate the proceedings;

008.02D State the precise wording of the proposed rule or amendment, or the precise wording of the present rule to be repealed;

008.02E State in ordinary and concise language, without repetition, the reasons for such promulgation, amendment, or repeal; and

008.02F Be subscribed and verified by the petitioner, or by a duly authorized officer of the petitioner, if it be a corporation.

008.03 Submission of Rules Petitions. The original and twelve copies on three- hole punched paper of each petition for the promulgation, amendment, or repeal of rules, shall be filed with the Executive Director of the Coordinating Commission for Postsecondary Education at P. O. Box 95005, Lincoln, NE 68509-5005 or 140 North Eighth, Suite 300, Lincoln, Nebraska 68508 by mail or in person during normal business hours of the Commission.

008.04 Format for Filings. All pleadings, exhibits, and other documents filed with the Executive Director or offered in evidence at the hearing shall be accompanied by twelve copies and be on 8 1/2 x 11 inch white three-hole punched paper, unless waived by the Commission or hearing officer.

008.05 Rules Petition Hearings.

008.05A The time and place for hearings on rule petitions shall be subject to the discretion of the Commission. The Commission may elect to consolidate hearings on related petitions and may elect to assign the Executive Director or a member of the Commission staff to conduct such hearings as a hearing officer in place of the Commission and to provide a summary of the testimony to the Commission.

008.05B At the time and place set for hearing, an appropriate committee thereof or appointed hearing officer shall afford the petitioner a reasonable time to discuss the petition and may request additional testimony from the Executive Director and/or Commission staff regarding the effect of the proposed changes. At the discretion of the Committee or hearing officer, other persons requesting time to testify may also be granted such opportunity. Failure of any petitioner to appear at the time and place set for hearing, unless otherwise allowed by the Committee or hearing officer for good cause shown, will be deemed sufficient grounds for the Committee or hearing officer to recommend dismissal of the petition. Informal procedures governing the conduct of such hearings shall be subject to the discretion of the Committee or hearing officer at the time of such hearings, unless otherwise specified in this Chapter.

008.05C The Commission, after considering the contents of the petition and any testimony, evidence, or summary of the hearing (if conducted by a hearing officer), will dispose of the petition in one of the following manners, with notice of such action given to the petitioner by regular U.S. mail:

008.05C1 Dismiss the petition if the Commission finds that it does not wish to schedule a formal public hearing on rule changes relating to the petition;

008.05C2 Schedule a formal public hearing as provided in Section 84-907 (R.R.S.) regarding the proposed rule changes, or related changes, in which case the petition, exhibits, and any hearing officer summary previously obtained will be entered into the record of such public hearing; or

008.05C3 Refer the material contained in the petition, exhibits, and any hearing officer summary to the Executive Director for further study regarding the need for changes in the regulations of the Commission in areas related to the petition.

008.06 Subsequent Petitions. When any petition for rule changes covers substantially the same subject matter as a prior petition disposed of by the Commission within the previous 365 calendar days, the Executive Director is hereby authorized to issue an order on behalf of the Commission dismissing the petition, unless the Executive Director determines that a change in circumstances has been shown by the petitioner justifying a rehearing of the subject matter.

**APPENDIX A: SAMPLE PETITION FOR DECLARATORY RULING**

**BEFORE THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
STATE OF NEBRASKA**

IN THE MATTER OF A REQUESTED	)	
DECLARATORY RULING INVOLVING	)	CASE NO. <u>(LEAVE BLANK)</u>
	)	
	)	
(Name)	)	PETITION
(Address)	)	
	)	
Petitioner	)	

Petitioner, in accordance with Section 84-912 of the Revised Statutes of Nebraska and Title 281, Nebraska Administrative Code, Chapter 12, states and alleges as follows:

1. (Provide a concise statement of the grounds upon which the Commission authority or jurisdiction depends.)
2. (State the legal capacity of the petition to instigate the proceedings.)
3. (Concisely set forth all material facts upon which the declaratory ruling is asked plus the proposed declaratory ruling to which the petitioner alleges entitlement.)
4. (State the names and addresses of all known persons, political subdivisions, corporations, organizations, or other entities who have or claim any interest that would be affected by a declaration by the Commission.)

WHEREFORE, Petitioner prays that the Coordinating Commission for Postsecondary Education (state action sought, including declaratory ruling language).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature)



**APPENDIX A: SAMPLE PETITION FOR DECLARATORY RULING, Page 2**

## VERIFICATION

State of Nebraska                    )  
County of                                 ) ss

I, \_\_\_\_\_, being first duly sworn under oath, state that I have read the contents of the petition and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said petition.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, by  
(Name of Petitioner) \_\_\_\_\_.

(Seal)

Notary Public

## NOTICE OF OPTION TO FILE RESPONSE

You are hereby notified that 281 NAC 12 provides that you may file a response to this petition within 21 days. A copy of 281 NAC 12 (Rule 12) is attached.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Petition, including a copy of any exhibits cited therein, Notice of Option to File Response, and a copy of 281 NAC 12 (Rule 12) were mailed to the following persons by certified mail, return receipt requested, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and a copy of the receipt(s) will be filed with the Executive Director of the Coordinating Commission for Postsecondary Education within seven days of their return.

(Signature of Petitioner)

(List names and addresses)

**APPENDIX B: SAMPLE RESPONSE FORM FOR DECLARATORY RULINGS**

BEFORE THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
STATE OF NEBRASKA

IN THE MATTER OF A REQUESTED	)	
DECLARATORY RULING INVOLVING	)	CASE NO. <u>(LEAVE BLANK)</u>
	)	
	)	
(Name)	)	RESPONSE
(Address)	)	
	)	
Petitioner	)	

COMES NOW (Name), Interested Party, and, for his/her  
Response to the Petition (or Petition on Appeal) of the Petitioner, admits, denies, and alleges as  
follows:

(Respondent should specifically deny or admit each material allegation of the petition  
and should completely advise all parties as to the nature of the objection to the Petition, of any.)

WHEREFORE, this Interested Party prays that the Coordinating Commission for  
Postsecondary Education (enter or not enter) the Declaratory Ruling sought in this matter  
(and/or state any additional action sought)

(Signature of Interested Party)

**APPENDIX B: SAMPLE RESPONSE FORM FOR DECLARATORY RULINGS, Page 2**

VERIFICATION

State of Nebraska                    )  
                                                  ) ss  
County of \_\_\_\_\_)

I, \_\_\_\_\_, being first duly sworn under oath, state that I have read the contents of the petition and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said petition.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, by  
(Name of Interested Party)\_\_\_\_\_.

(Seal)

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Response, including a copy of any exhibits cited therein, were mailed to the following persons by regular first-class mail, postage prepaid, this day of \_\_\_\_\_, 19\_\_.

(Signature of Interested Party)

\_\_\_\_\_  
(List names and addresses)  
\_\_\_\_\_

**APPENDIX C: SAMPLE PETITION FOR RULE CHANGE**

BEFORE THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION  
STATE OF NEBRASKA

IN THE MATTER OF THE PROMULGATION	)	
(OR REPEAL OR AMENDMENT) OF	)	CASE NO. <u>    (LEAVE BLANK)    </u>
(STATE SUBJECT MATTER OF PROPOSED	)	
RULE OR CURRENT RULE NUMBER)	)	
	)	
(Name)	)	PETITION
(Address)	)	
	)	
Petitioner	)	

Petitioner, in accordance with Section 84-910 of the Revised Statutes of Nebraska and Title 281, Nebraska Administrative Code, Chapter 12, states and alleges as follows:

1. (State the legal capacity of petitioner to instigate proceedings.)
2. (State the precise wording of the proposed rule or amendment or the number of present rule to be repealed.)
3. (State in ordinary and concise language, without repetition, the reasons for such promulgation, amendment, or repeal.)
4. (Attach any exhibits that are applicable or documents referred to above.)

WHEREFORE, Petitioner requests that the Coordinating Commission for  
Postsecondary Education                     (state action sought)                    .

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature)

**APPENDIX C: SAMPLE PETITION FOR RULE CHANGE, Page 2**

VERIFICATION

State of Nebraska                    )  
                                                  ) ss  
County of \_\_\_\_\_)

I, \_\_\_\_\_ (Name of Petitioner) \_\_\_\_\_, being first duly sworn under oath, state that I have read the contents of the petition and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said petition.

(Signature of Petitioner)

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, by  
(Name of Petitioner) \_\_\_\_\_.

(Seal)

Notary Public

(NOTE: CHAPTER 13 - RULES AND REGULATIONS REPEALED)

## **TITLE 281 - NEBRASKA ADMINISTRATIVE CODE CHAPTER 14**

### **RULES AND REGULATIONS CONCERNING THE ESTABLISHMENT OF NEW COLLEGES, SCHOOLS, MAJOR DIVISIONS OR INSTITUTES**

#### **TITLE 281 - COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION**

#### **CHAPTER 14 - RULES AND REGULATIONS CONCERNING THE ESTABLISHMENT OF NEW COLLEGES, SCHOOLS, MAJOR DIVISIONS OR INSTITUTES**

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Statutory Authority	§85-1402, 85-107, 85-1411, and 85-1414	001

### **001 STATUTORY AUTHORITY**

§85-1402(5) - Relating to the definition of program of instruction, which also includes the establishment of any new college, school, major division or institute of the public institutions of postsecondary education.

§85-107 - Relating to colleges and institutes of the University of Nebraska as described therein, together with any other colleges and institutes as may be established by the Board of Regents of the University of Nebraska with the approval of the Coordinating Commission for Postsecondary Education.

§85-1414 - Relating to Commission establishment of “an ongoing process to review, monitor, and approve or disapprove...the new...programs of public institutions...which use tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive statewide plan and to prevent unnecessary duplication.”

### **002 SCOPE, APPLICATION AND RELATED PROVISIONS**

The following rule applies to Commission review of proposed new colleges, schools, major divisions or institutes administered by public institutions, as said institutions are defined by law.

The review of proposed new colleges, schools, major divisions or institutes shall be subject to the rule contained herein, the Comprehensive Statewide Plan, and such other rules and regulations as may be promulgated by the Commission.

### **003 INTENDED REVIEW OUTCOMES**

Review of proposed new colleges, schools, divisions or institutes shall bring about

assurance of adequate:

- quality and effectiveness;
- contribution to meeting educational needs;
- efficiency and avoidance of unnecessary duplication; and
- adequate financial resources.

003.01 Quality and effectiveness shall include, but are not limited to:

003.01A The importance of the college, school, major division or institute in terms of the nature and extent of contribution to the overall role and mission of the institution.

003.01B Potential contributions of the college, school, major division or institute to enhance instructional objectives of academic units which shall comprise the new college, school, major division or institute.

003.01C Potential contributions of the college, school, major division or institute to enhance instructional objectives of academic units other than those which shall comprise the new college, school, major division or institute.

003.02 Contribution to meeting educational needs shall include, but is not limited to enhancing:

003.02A How well the college, school, major division or institute will serve its intended target audience(s) for its instructional activities.

003.02B Benefits of the work carried out by the college, school, major division or institute to students, other organizational units of the institution, the state and people of Nebraska, and external groups being served.

003.02C The extent to which the proposed college, school, major division or institute will contribute to greater access and choice.

003.03 Efficiency and avoidance of unnecessary duplication shall include, but is not limited to whether:

003.03A The proposed college, school, major division or institute will facilitate effective use of public funds by its existence in comparison to other options, or, by duplication, reduce effective use of public funds. The institution shall have an appropriate plan to assure sufficient funds to implement the proposal.

003.03B The intended cost and revenue outcomes of the proposed college, school, major division or institute are attainable.

003.03C There is long term potential to achieve the objectives in establishing the proposed college, school, major division or institute.

#### **004 DEFINITIONS**

The following definitions shall apply to proposals to establish a new college, school, major division or institute.



004.01 A new college, school, major division or institute shall mean an instructional entity of a public institution within which related disciplines are grouped, and which the institution either previously combined in a different manner, or such disciplines did not previously exist within the institution. A new college, school, major division or institute shall not include name changes, or reasonable and moderate extensions of or reorganizations within existing colleges, schools, major divisions or institutes which have a direct relationship to the existing college, school, major division or institute.

004.02 Public Institution shall mean each campus of a public postsecondary educational institution which is or may be established by the Legislature, which is under the direction of a governing board, and which is administered as a separate unit by the board; including the University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, University of Nebraska Medical Center, Chadron State College, Peru State College, Wayne State College, Central Community College, Metropolitan Community College, Mid- Plains Community College, Northeast Community College, Southeast Community College and Western Nebraska Community College.

004.03 Commission shall mean the Coordinating Commission for Postsecondary Education.

## **005 REVIEW CRITERIA**

Review criteria for new colleges, schools, divisions or institutes shall include the following:

005.01 Centrality to the role and mission of the public institution. The proposed new college, school, major division or institute shall be consistent with the institutional role and mission, as defined by law and approved by the Coordinating Commission. The new college, school, major division or institute shall enhance instructional objectives of academic units which comprise the college, school, major division or institute. Where appropriate, potential contributions of the college, school, major division or institute shall enhance instructional objectives of academic units other than those which shall comprise the new college, school, major division or institute.

005.02 Consistency with the comprehensive statewide plan. The new proposed new college, school, major division or institute shall be consistent with the comprehensive statewide plan as defined and approved by the Commission.

005.03 Objective evidence of need and demand. Elimination of unreasonable duplication shall be a high priority of the Commission. To the extent the new instructional entity proposes new instructional programs, the need for those programs additionally will be determined under the Rule for Review of Proposed New Instructional Programs. The institution shall demonstrate that the new college, school, major division or institute appropriately serves its intended target audience(s) for its instructional activities. The work carried out by the college, school, major division or institute shall benefit students, other organizational units of the institution, the state and people of Nebraska, and external groups being served, as appropriate. The new college, school, major division or institute shall contribute to greater access and choice, as appropriate.

005.04 Adequacy of available or anticipated resources to support the proposed new college, school, major division or institute. The institution shall provide evidence that the

institution has resources to adequately create and maintain the proposed new college, school, major division or institute, or indicate whether the formation of the entity is contingent upon receipt of a new appropriation or other extra-institutional sources of funding for same. The intended cost and revenue outcomes of the proposed college, school, major division or institute shall be demonstrated as attainable. Proposals shall be considered in the context of available state budget resources over the short and long-term.

005.05 Efficiency and avoidance of unnecessary duplication. The proposed college, school, major division or institute will facilitate effective use of public funds by its existence in comparison to other options, including those options available through other public and private institutions.

005.06 Additional Information. The institution shall provide other information that, in the opinion of the Commission, is necessary to make an adequate examination of the proposal.

## **006 ADDITIONAL CONSIDERATIONS**

006.01 Prior to institutional submittal of a reporting document to the Commission, that report shall first receive written approval by the governing board. The proposal to the Commission shall include all material submitted to the governing board and upon which the governing board made its decision.

006.02 Any college, school, major division or institute authorized by action of the Legislature or a governing board, and in existence prior to January 1, 1992, shall be deemed approved.

006.03 Parties wishing to appeal decisions of the Commission shall proceed as provided by law.